

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAIORIGINAL APPLICATION Nos.764/2018, 245/2019246/2019, 247/2019, 248/2019, 249/2019,
250/2019, 323/2019, 326/2019, 366/2019,
436/2019, 437/2019, 438/2019, 439/2019,
449/2019, 450/2019, 451/2019, 452/2019,
453/2019, 454/2019

Date of decision: 07.11.2019

CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).

Mrs. Punam Kumari
Ex-MTS, PA No.63771-G,
widow of late Raj Koshore
Singh, age-32 years, Occ. Service,
Presently residing at SMQ P-134/3,
Air Force Station, Devlali Camp,
Nashik 422401, Maharashtra.

...Applicant in OA No.764/2018.

Pandharinath Sukdev Gawande
Ex-MTS, PA No.63767-B,
Son of Shri Gawande Sukdeo Kalu,
Age-44 years, Occ. Service, presently
residing at H.No.305, Shingwe
Bahula, Devlali Camp, Nashik-422401,
Maharashtra.

...Applicant in OA No.245/2019.

Santosh Digambar Kshirsagar
Ex-MTS, PA No.63758-A,
Son of Shri Digambar Kshirsagar,
Age-28 years, Occ.Service, presently
residing at A/6, NE, Panchjyoti Society,
Devlali Camp, Nashik-422401,
Maharashtra.

...Applicant in OA No.246/2019.

Ganesh Trambak Patole
 Ex-MTS, PA No.63766-T,
 Son of Shri Trambak Patole,
 Age-44 Years, Occ, Service
 Presently residing at Village
 Shingawe Bahula, Devlali Camp,
 Nashil-422401,
 Maharashtra.

...Applicant in OA No.247/2019.

Shankar Bhagwan Pale
 Ex-MTD, PA No.45825-S, Son of
 Shri Bhagwan K. Palde,
 Age-40 years, Occ. Service,
 Presently residing at H.No.279,
 Ambad Ganvathan, Village-Lahavit,
 PO-Lahavit, Nashik-422502,
 Maharashtra.

...Applicant in OA No.248/2019.

Pravin Shivaji Gawali
 Ex-MTs, PA No.63760-S,
 Son of Shir Shivaji Gawali,
 Age 29 years, Occ. Service,
 Presently residing at daily
 Market, Shivaji Chowk, Lahavit,
 Dist. Nashik-422502,
 Maharashtra.

...Applicant in OA No.249/2019.

Vinod Kumar,
 Ex-MTS (PH), PA No.63770-B,
 Son of Shri Late Hazari Lal,
 Age-39 years, Occ.Service,
 Resident of 145, Idra Colony,
 Ratnada, AF Area, PO-Residency
 Defence Lab, Dist-Jodhpur,
 Rajasthan-342011.

...Applicant in OA No.250/2019.

Sachin Govind Adke
 Ex-MTs, PA No.63759-F,

Son of Shri Govind Adke,
Age-28 years, Occ. Service,
Presently residing at H. No.703,
Karkhana Road, Post-Nanegaon,
Nashik-422502,
Maharashtra.

...Applicant in OA No.323/2019.

Namdev Bhausaheb Jaras
Ex-Cook, PA No.45824-N,
Son of Shri Bhausaheb Jaras,
Age028 years, Occ. Service,
Presently residing at H. N.1054
Lahavit, Malwadi, District-Nashik
422502, Maharashtra.

...Applicant in OA No.326/2019.

Yogesh Pandhurang Chavanke
Ex-MTS, PA No.63764-L,
S/o Pandurang Chavanke,
Age-24 years, Occ. Service,
Presently residing at Village & PO
Shivade, Taluka-Sinnar, Mandir
Gali Nashik, Dist.Nashik-422502,
Maharashtra.

...Applicant in OA No.366/2019.

Rajesh Bhikari Pardhe
Ex-MTS, PA No.63761-A,
Son of Shri Bhikari Pardhe,
Age-31 years, Occ. Service,
Presently residing at NP-95/01
Six Chawal, 25 ED AF Station,
Devlali (S), Nashik-422501,
Maharashtra.

...Applicant in OA No.436/2019.

Manoj Prabhakar Shinde
Ex-MTS, PA No.63763-H,
son of Prabhakar Shinde,
Age-25 years, Occ. Labourer,
presently residing at 124,
Maruti Gali Lahvit, Nashik,
District-Nashik-422502,

Maharashtra.

...Applicant in OA No.437/2019.

Suresh Dagadu chaure
 Ex-MTS, PA No.63769-K,
 Son of Shri Dagadu Chaure,
 Age-28 years, Occ. Nil,
 Presently residing at 54,
 Saraswati Nagar, Nagpur Road,
 Sakri, Dhule-424304.
 Maharashtra.

...Applicant in OA No.438/2019.

Sachin Chandrakant Satre
 Ex-Superintendent (Store)
 PA No.45871-K, Son of Shri
 Chandrakant Satre, Age-26 years,
 Occ. Nil, presently residing at 35
 Matru Chhaya Shivneri Nagar,
 Vijay Nagar Road,
 Devlali Nashik-422 401
 Maharashtra.

...Applicant in OA No.439/2019.

Sagar Nana Borale
 Ex-Fireman, PA No.45828-H,
 Son of Nana Borale, age-23 years,
 Occ. Service, presently residing at
 Village-Nimbayati, Post-Malegaon,
 District-Nashik-423212,
 Maharashtra.

...Applicant in OA No.449/2019.

Pratik Ramesh Gaikwad
 Ex-Fireman, PA No.45829-L,
 Son of Shri Ramesh Gaikwad,
 Age-31 years, Occ. Labourer,
 presently residing at Pratik
 Computers, Near Ambedkar Statue,
 Amravati Road, Wadi,
 Nagpur-440023,
 Maharashtra.

...Applicant in OA No.450/2019.

Dinkar Ashok Patole
Ex-MTS, PA No.63765-R,
Son of Ashok K Patole,
Age-26 years, Occ. Service,
Presently residing at
Lohshingve, Post Shenit,
District Nashik 422502,
Maharashtra.

...Applicant in OA No.451/2019.

Shubham Laxman Waghchaure
Ex-MTS, PA No.63857-F,
Son of Shri Laxman Waghchure,
Age 22 years, Occ. Service,
presently residing at Qtr. No.
94/05, Driver Qtr. 25 ED,
AF Station Devlali (South),
Nashik 422 501,
Maharashtra.

...Applicant in OA No.452/2019.

Bhausaheb Kacharu Jundre
Ex-Fireman, PA No.45826-A,
Son of Shri Kacharu Jundre,
Age-38 years, Occ Farmer,
presently residing at Shraddha
Apartment, Behind Suman Hospital,
Jai Bhavani Road, Nashik,
District-Nashik 422401,
Maharashtra.

...Applicant in OA No.453/2019.

Mayur Subhash Sonawane
Ex-MTS, PA No.63757-S,
Son of Shri Subhash Sonawane,
Age-24 years, Occ. Service,
Presently residign at 96,
Subhash Road, Bhagur,
Nashik 422502,
Maharashtra.

...Applicant in OA No.454/2019.

(By Advocate Shri Yogendra Pratap Singh)

Versus

1. Union of India
 (through Secretary of Defence)
 Ministry of Defence, South Block,
 New Delhi-110011.
2. The Chief of the Air Staff
 (Air Officer-in-charge Personnel)
 Air Headquarters Vayu Bhavan,
 Rafi Marg, New Delhi-110106.
3. The Air Officer commanding-in-Chief
 HQ Maintenance Command,
 Vayusena Nagar, Nagpur-440007
 Maharashtra.
4. The Air Officer Commanding
 25 Equipment Depot, Air
 Force Station, Devlali South,
 Nashik-422501, Maharashtra.

...Respondents.

(By Advocate Shri R. R. Shetty)

O R D E R (O R A L)
Per: R. VIJAYKUMAR, MEMBER (A)

1. When the case is called out, Shri Yogendra Pratap Singh, learned counsel appeared for the applicants in all the above OAs.
2. Shri R. R. Shetty, learned counsel appeared for the respondents in all the above OAs.
3. This batch of OAs have been filed on or around 10.12.2018 under Section 19 of the

Administrative Tribunals Act, 1985 seeking the following reliefs:

(Reliefs in OA No764/2018)

"8.1 Quash and set aside the impugned order of Respondent No.4 i.e. Air Officer Commanding, 25ED, AFS, Nashik No.25ED/672/63760/PC dated 05.12.2018 terminating the service of the applicant with effect from 05.12.2018;

8.2 Quash and set aside the impugned order of the Respondent No.2 i.e. Competent Authority i.e. Air Officer-in-charge Personnel (AOP) Air Headquarters letter No.AIR HQ/23077/REP/17/PC-3 dated 23July 2018 and MC/5901/1/REP/PC(PI Cases) dated 02 August 2018 and such other subsequent orders in chain of command quashing the Selection Board unilaterally being unjust, arbitrary and illegal;

8.3 Pending hearing and final disposal of this OA stay the operation of the impugned orders of quashing the said Selection Board by the Respondent No.2 i.e. Competent Authority i.e. Air Officer-in-charge Personnel (AOP) Air Headquarters letter No. Air HQ/23077/REP/17/PC-3 dated 23 July 2018 and orders of Respondent No.3 and 4 being in chain of command;

8.4 Pending hearing and final disposal of this OA stay the operation of the impugned order of Respondent no.4 i.e. Air Officer Commanding, 25ED, AFS, Nashik No.25ED/672/63760/PC dated 05.12.2018 terminating the service of the applicant with effect from 05.12.2018;

8.5 Restrain the respondents from

filling up the vacancies arising due to impugned quashing of the said selection board pending final hearing and disposal of this OA;

8.6 Grant Ad-interim and interim reliefs in terms of prayers at para 8.3, 8.4 and 8.5 as aforesaid, pending final hearing and disposal of this OA;

8.7 Grant such other and further reliefs, as the nature and circumstances of this application may require for dispensing justice."

4. The facts of the matter are that, following an advertisement dated 2-8.04.2016 for inviting applications for 25 vacancies for various posts and 15 for the post of MTS, candidates applied and after scrutiny of applications, candidates appeared in written test and skill/practical test and on this basis, they were given appointments on the posts applied. The appointment orders were issued on 09.12.2016 for different posts and the applicants were placed under probation for two years with the condition that during the probation period, the applicants services were liable to be terminated at any time without notice. Based on some complaints lodged by unsuccessful candidates, inquiry was conducted by the respondents and the following irregularities were identified by the respondents as

follows:

(a) **Irregularity in Scrutiny of Application Forms:** Non compliance of various instructions, rules, guidelines published in employment news as Recruitment Rules of various trades during scrutiny board and allowed a number of negligible candidates to participate in written exam. The scrutiny board did not sift out candidates not possessing the 'essential' qualification prescribed in the advertisement published in the 'Employment News'. For Example: this led to one candidate selected as CMTD & one candidate selected as a painter not possessing the essential qualification mandated for the post, which is a serious irregularity.

(b) **Not following Standard Operating Procedure during evaluation of Answer Sheets:** No institution was issued in Question Paper cum Answer sheet prepared for MTS trade by Selection Board regarding negative marking and the Board also failed to evaluate Answer Sheets of MTS Trade with negative marking. Negative marking for MTS Trade paper is prescribed in the policy and same was not followed in the instant case. A copy of the said policy is enclosed herewith and marked as **Annexure R-1.**

(c) **Wrong evaluation of Answer Sheets:** The selection Board failed to ensure proper evaluation and verification of Answer Sheets of candidates of Written Examination. It has emerged during the sample check of papers that there were evaluation errors ranging from +24 marks to -12 marks in the answer papers of the candidates. Further, many of the Question cum Answer sheets did not have the signature of the evaluators putting

into question the veracity of the same. The Court of Inquiry after going through the answer sheets of all the candidates who had appeared in the practical exams was of the opinion that the anomalies were of serious nature and would have cascading effect on merit list of written test of candidates in various trades. The sample of evaluation of answer sheet (**Table No.30 of Court of Inquiry Proceedings**) is submitted as Annexure-R2.

(d) **Wrongly adding of practical/skill test marks while preparing merit list:**

The Selection Board violated the Government policy letter No.Air HQ/23049/DR/SOP/PC-3 dated 22 Jan 2016 which had mandated the selection/merit list on the basis of marks obtained in written test. The policy is to select the candidates based on their marks in written exam subject to qualifying in nature. However, the Selection Board has added the marks obtained in practical which has altered the merit list and consequently the right of meritorious candidates have been violated due to not applying the recruitment policy. The photocopy of policy letter dated 22 Jan 2016 is submitted as Annexure -R3.

5. As the OAs involve common question of facts and law, with the consent of the parties, all the OAs are being heard together and decided by a common order.

6. The respondents claim that these were major errors and violations which completely vitiated the selection process and rendered the appointments invalid due to the gross violation of the relevant

rules, instructions, standard operating procedures and recruitment policy. The Court of Inquiry appointed by them for the purpose, also referred to the selection having suffered from inconsistency in the manner by which the procedures had been gone through. On this basis, a show cause notice was given to various applicants and they were terminated from service prior to completion of their probation period.

7. The learned counsel for the applicant has argued that the show cause notice was based on a pre-determination by the Court of Inquiry and was a meaningless procedure that was not seriously followed by the respondents and he further submits that the applicants have been grievously affected for no fault of theirs especially in the circumstance that none of the applicants have been specifically pointed out as offenders in respect of various deficiencies identified by the Court of Inquiry. He also explained that the applicants have duly appeared in the examination and served for nearly two years and had, after setting their domestic arrangements, they have been badly affected by the abrupt termination.

8. With reference to the four aspects of

deficiencies pointed out by the Court of Inquiry, he argues that there were no complaints against the applicant and simply because of faults that could be attributable to the respondents and the officials under their control, the applicants cannot be gravely hurt. He also questions the basis on which the Court of Inquiry and the respondents came to the conclusion upon identifying these particular issues and problems that came into selection process, only on en bloc cancellation was the sole way ahead and he suggested that it could have been possible for correction to have been made in the process by the respondents to arrive at a final, fair selection.

9. The learned counsel for the respondents argues that the respondents are responsible for the conduct of examination strictly in accordance with the Rules and the of Constitution and equal treatment is necessary to be granted to all the candidates who appear in the process. He made detailed reference to the four reasons cited by the Court of Inquiry by which it is found that the irregularities in scrutiny were in drastic non-compliance of both the instructions, rules, guidelines and recruitment rules which had led to two candidates who did not posses

essential qualifications being included in the select list.

10. Further, the requirement of negative marking for the MTS trade paper was prescribed in the standard operating procedure policy document of the respondents and that has not been incorporated in the present process. He also referred to a variety of errors in evaluation of the written papers of the candidates which effectively range from minus 12 marks to plus 24 marks and the grave deviations seen in these marks, had-clearly resulted in an irremediable distortion of the final select list.

11. Further, he also refer to the wrong addition of practical/skill test marks while preparing the selection list which is incompatible with the policy and supplements the various errors and deviations that had affected the selection proceedings.

12. The learned counsel for the respondents also informs the court that suitable disciplinary action has been taken against the concerned officers and the members of the Selection Committee for violation of rules and they have been punished. The learned counsel for the respondents further submits that a fresh selection examination has also been conducted

on 22.06.2019 and all the applicants have participated in this selection process but the results have not been published because of the interim orders passed by this Tribunal. He also submits that for this fresh selection, the applicants and the persons who had applied against the previous advertisement have been considered as per their eligibility on the date of their former advertisement and wherever age relaxation was required, such age relaxation has been granted to them.

13. The learned counsels for the parties have been heard carefully. The applicants have pleaded that they have suffered grievously. The learned counsel for the respondents further assures that the respondents have conducted the fresh selection without being prejudiced by the applicants in the present OAs. We also do not find anything wrong in the impugned orders of the respondents wherein they have indicated the authority to terminate the temporary appointment of the applicants who were then on probation at the time of termination and in which they have also cited reasons and basis for the said termination orders.

14. In view of the aforesaid facts and

submissions, when the findings of the Court of Inquiry, referred to herein above is neither under challenge nor any reasons cited to question the impartiality thereof, we do not find any merit in the aforesaid OAs. It is also directed to the respondents that the decision of the selection process may be taken forward for which the previous interim order already granted in the matter stands withdrawn. Accordingly, the aforesaid OAs are disposed of. No order as to costs.

15. Pending MAs also stand disposed of.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

v.

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