



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.7920 OF 2015**

- 1. Meenal Shashikant Joglekar ]  
R/of Worli, Mumbai ]
- 2. Kirti Prakashrao Moharil ]  
R/of Worli, Mumbai ]
- 3. Varsha Santosh Andhale ]  
R/of Tardeo, Mumbai ]
- 4. Kiran Janardan Moghe ]  
R/of Golf Club, Nashik ]

**..Petitioners**

***Versus***

- 1. State of Maharashtra, ]  
Through Information & Public Relations Dept. ]  
General Administration Department ]
- 2. The Director General, ]  
Information & Public Relations Department, ]  
Maharashtra State ]
- 3. Sanjay Krishnaji Bhokardole ]  
Free Lance Journalist, ]  
R/of Shri Krishna Colony, Jalgaon ]

**..Respondents**

**ALONG WITH**

**WRIT PETITION NO.1890 OF 2017**

- 1. State of Maharashtra, ]  
Through Information & Public Relations, ]  
General Administration Department ]
- 2. The Director General, ]  
Information & Public Relations Department, ]  
Maharashtra State ]

**..Petitioners**

***Versus***

- 1. Sanjay Krishnaji Bhokardole ]  
Free Lance Journalist, ]  
R/of Shri Krishna Colony, Jalgaon ]
- 2. Meenal Shashikant Joglekar ]  
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R/of Worli, Mumbai ]
4. Varsha Santosh Andhale ]  
R/of Tardeo, Mumbai ]
5. Dr. Kiran Janardan Moghe ]  
District Information Officer, Nashik ]
6. Kishor Ramesh Gangurde ]
7. Purnima Jagannath Khairnar ]
8. Hemraj Kashinath Bagul ]
9. Devendra Laxman Patil ]
10. Take Pravin Krishnarao ]

**..Respondents**

Mr. Mohan Sudame, Senior Advocate with Mr. Aniket Mokashi, Ms. Ruchita Chavan i/by Mr. Amit Karkhanis, Advocates for the Petitioners in WP 7920/2015 and for Respondent Nos.2 to 5 in WP 1890/2017.

Mr. B.V. Samant, Additional Government Pleader with Ms. D.S. Deshmukh, Assistant Government Pleader for petitioner-State in WP 1890/2017 and for the respondent-State in WP 1890/2017.

Mr. Himanshu Patil with Mr. Suransh Sonar, Mr. Suresh Ghamre and Mr. Kapil Agarwal, Advocates for Respondent No.3.

**CORAM : A.S. CHANDURKAR & RAJESH S. PATIL, JJ**

**Date on which the arguments concluded : 11<sup>th</sup>October 2024**

**Date on which the judgment is pronounced : 10th January 2025**

**JUDGMENT : { Per A.S. Chandurkar, J. }**

1. In these writ petitions, a challenge has been raised to the common judgment of the Maharashtra Administrative

Tribunal (for short, 'the Tribunal') dated 31/07/2015 in Original Application Nos.4 of 2011 and 5 of 2011. By virtue of the impugned judgment, the selection and appointment of the petitioners in Writ Petition No.7920 of 2015 on the post of District Information Officer, Group-A (Junior) has been quashed and the Department of Public Relations, State of Maharashtra has been directed to conduct a fresh process of selection for four posts from the open category of District Information Officer. The State of Maharashtra through its Department of Public Relations being aggrieved by the said common judgment has also challenged the same in Writ Petition No.1890 of 2017.

2. Facts relevant for considering the challenge as raised are that on 11/02/2008, the Director General of Information and Public Relations issued Advertisement No.2 of 2008 wherein eight posts of District Information Officer were advertised. One post was reserved for candidates from the Schedule Castes Category, three posts were reserved for candidates from the Other

Backward Class Category and four posts were kept for candidates from the Open Category. Of these four posts, three posts were reserved for women and one post was reserved for sport-persons. The petitioners in Writ Petition No.7920 of 2015 (for short, 'the selected candidates') had participated in the recruitment process. The respondent no.3 in the said writ petition (for short, 'the aggrieved candidate') was aged about 37 years when the advertisement was issued. The upper age limit prescribed for candidates who were not in Government service was 35 years. The upper age limit could be relaxed under Rule 7 of the Director (Information Officer), Deputy Director (Information), Senior Sub- Editor, Senior Assistant Director, District Information Officer and Public Relations Officer (Grade-A) and Assistant Director (Grade-B) in the Directorate General of Information and Public Relations (Recruitment) Rules, 1994 (for short, 'the Recruitment Rules of 1994'). As the aggrieved candidate was not called for the written examination, he had filed Writ Petition No.3419 of 2008 at the Aurangabad Bench of this Court.

Pursuant an interim order passed in the said writ petition on 16/05/2008, the aggrieved candidate appeared for the written examination and scored 62 out of 100 marks. The selected candidates scored 68, 59 and 57 marks respectively. The said writ petition was permitted to be withdrawn with liberty to approach the Tribunal. The aggrieved candidate thereafter filed Original Application No.410 of 2008 seeking a declaration as regards his entitlement to age relaxation. In the meanwhile, on 03/07/2008 the General Administration Department issued an order appointing the selected candidates on the post of District Information Officer. The aggrieved candidate being aggrieved by their selection preferred Original Application No.5 of 2011.

3. The Tribunal after considering the rival submissions found that the candidature of the aggrieved candidate was wrongly rejected in view of breach of Rule 7 of the Recruitment Rules. It held that three posts from the Open Category were wrongly reserved for women as only one

post could have been reserved and that the reservation of one post from open category for sport persons was also wrong. It further found that the Non-Creamy Layer Certificate produced by two successful candidates were incorrect and that without verifying the same, their candidature was considered. On these grounds, the selection of the selected candidates was held to be illegal and thus quashed. A direction was issued to conduct a fresh process of selection for four posts of District Information Officer from the open category afresh. The application for age relaxation preferred by the aggrieved candidate was directed to be decided as per Rule 7 of the Recruitment Rules. This common judgment is assailed in these writ petitions.

4. Mr. Mohan Sudame, learned Senior Advocate for the successful candidates submitted that the Tribunal committed a grave error in holding the selection of the selected candidates to be illegal. According to him, the Tribunal was not justified in holding that it was for the Selection Committee to recommend age relaxation of any

candidate. It erroneously held that the matter was never placed before the Selection Committee to enable it to consider whether the age of the aggrieved candidate ought to be relaxed. It was submitted that age relaxation was required to be considered by the appointing authority which in the present case was the Secretary of the concerned Department. Only if the appointing authority found that a candidate had exceptional qualifications or experience that the name of such candidate could be included in the zone of consideration. The Selection Committee was concerned only with inter se merit of the candidates and it was expected to treat all candidates equal. The issue with regard to grant of age relaxation was not within the province of the Selection Committee. Though the aggrieved candidate had filed Writ Petition No.3419 of 2008 seeking age relaxation, that writ petition was not further prosecuted after obtaining interim relief on 16/05/2008 so as to participate in the selection process. The aggrieved candidate therefore was not interviewed by the Selection Committee. It was then

submitted that the aggrieved candidate did not challenge Advertisement No.2 of 2008 but merely challenged the selection of the successful candidates. This was after participating in the selection process. In absence of any challenge to the advertisement, it was not permissible for the Tribunal to go into the question as to whether there was any excessive reservation for women from the open category. It was thus clear that the Tribunal had travelled beyond the prayers made in the Original Application. The learned Senior Advocate further submitted that the Tribunal erred in concluding that the aggrieved candidate had exceptional qualifications to entitle him to seek age relaxation. This was a matter to be considered by the appointing authority and not the Tribunal. Without indicating as to how the experience and qualification of the aggrieved candidate were exceptional, the Tribunal had interfered in exercise of jurisdiction conferred upon it. As regards submission of Non-Creamy Layer Certificates, it was pointed out that prior to being duly selected, the successful candidates



had submitted their documents in that regard. After due verification, the same were found to be in order and accepted by the appointing authority. It was thus submitted that the Tribunal exceeded its jurisdiction in allowing the Original Application preferred by the aggrieved candidate and setting aside the selection of the selected candidates. To substantiate his contentions, the learned Senior Advocate placed reliance on the following decisions:-

- Sonali Ramkrishna Bayani Vs. State of Maharashtra & Ors., 2003 SCC OnLine Bom 917
- Chandra Prakash Tiwari & Ors. Vs. Shakuntala Shukla & Ors., 2002 INSC 276
- Dilip Punjaji Kharat Vs. State of Maharashtra & Ors., 2010 SCC OnLine Bom 1612
- Madan Lal & Ors. Vs. State of Jammu and Kashmir & Ors., 1995 INSC 100
- Om Prakash Shukla Vs. Akhilesh Kumar

Shukla & Ors., 1986 INSC 43

- Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board & Anr., (2016) 4 SCC 754
- Ms. Neha Achrekar Vs. Directorate of Technical Education, 2005 SCC OnLine Bom 841
- Dolly Chhanda Vs. Chairman, JEE & Ors., 2004 INSC 573
- Food Corporation of India & Ors. Vs. Bhanu Lodh & Ors., 2005 INSC 104
- Rajesh Kumar Daria Vs. Rajasthan Public Service Commission & Ors. with connected matter, 2007 INSC 761
- Kanchan Vishwanath Jagtap Vs. Maharashtra Administrative Tribunal, Nagpur & Ors., 2016 (1) Mh.L.J. 934
- Anil Kumar Gupta & Ors. Vs. State of U.P. & Ors., 1995 INSC 428

- Swati Gupta Vs. State of U. P. & Ors., 1995 INSC 94
- Samsher Singh Vs. State of Punjab and Anr., with connected matter, (1974) 2 SCC 831
- A. Sanjeevi Naidu, Etc. Vs. State of Madras and Anr., 1970 INSC 15
- Mohd. Mustafa Vs. Union of India and Ors., 2021 INSC 731
- Dalpat Abasaheb Solunke and Ors. Vs. Dr. B.S. Mahajan and Ors., (1990) 1 SCC 305
- S.B. Bhattacharjee Vs. S. D., Majumdar and Ors., 2007 INSC 584

It was thus submitted that the impugned judgment of the Tribunal be set aside and the appointment of the selected candidates be upheld.

5. Mr. B.V. Samant, learned Additional Government Pleader for the petitioners in Writ Petition No.1890 of

2017 adopted the aforesaid submissions. In addition, it was submitted that as the aggrieved candidate was not eligible to participate in the selection process being over-aged on the date of the advertisement, the challenge at his behest was not liable to be entertained. The Tribunal committed an error by directing the matter with regard to his age relaxation to be re-considered without noticing any illegality in the same. When it was clear that the aggrieved candidate was not eligible to be appointed on the post of District Information Officer, the Tribunal was not justified in entertaining the Original Application on merit. Referring to the decision in *Dr. Duryodhan Sahu and Ors. Vs. Jitendra Kumar Mishra and Ors.*, (1998) 7 SCC 273 which was also referred to before the Tribunal, it was submitted that the Tribunal committed a jurisdictional error while setting aside the appointment of the selected candidates. He submitted that the ratio of the decision in *Renu and Ors. Vs. District and Sessions Judge, Tis Hazari Courts, Delhi and Anr.*, (2014) 14 SCC 50 was not at all applicable to the facts of the present case. It

was thus submitted that the common judgment of the Tribunal was liable to be set aside.

6. Mr. Himanshu Patil, learned counsel appearing for the aggrieved candidate supported the impugned judgment of the Tribunal. He submitted that the aggrieved candidate was eligible to be considered for appointment on the post of District Information Officer. As he was not permitted to participate in the selection process, he had preferred Original Application No.4 of 2011. Since the appointment of the selected candidates had been made on 03/07/2008, the same was challenged in Original Application No.5 of 2011. He referred to the Government Resolution dated 25/05/2001 and submitted that maximum reservation of 30% ought to have been provided for women. The same however exceeded the permissible limit in the present case and hence the Tribunal rightly held that Advertisement No.2 of 2008 resulted in excessive horizontal reservation. Reference was made to Rule 2(d) of the Recruitment Rules of 1994 to submit that the upper age limit could be relaxed under Rule 7 on the recommendation of the

Selection Committee. The Selection Committee however failed to make any such recommendation despite the qualifications and experience of the aggrieved candidate being exceptional. He also referred to the Non-Creamy Layer Certificates of the successful candidates and submitted that the competent authority failed to notice the short comings therein. It was therefore submitted that the Tribunal having considered all relevant aspects, it was justified in setting aside the selection of the selected candidates and directing a fresh recruitment exercise to be undertaken in the matter. No interference therefore was called for with the impugned judgment of the Tribunal.

7. We have heard the learned counsel for the parties at length and we have also perused the documents placed on record. The dispute pertains to the entitlement of the aggrieved candidate to be considered for appointment on the post of District Information Officer. Advertisement No.2 of 2008 was issued on 11/02/2008 and the last date for submission of applications was 29/02/2008. As per the said advertisement, a candidate was required to be aged

between eighteen years and thirty-five years with a relaxation of five years for candidates from the reserved category. The upper age limit was not applicable to candidates who were already in service of the State Government. The aggrieved candidate was aged thirty-seven years five months and twenty-eight days as on the last date for submission of application forms. The aggrieved candidate was not in Government service and thus he was beyond the maximum permissible age of thirty-five years when he had applied for recruitment. Under Rule 7 of the Recruitment Rules, the age limit could be relaxed by the Government on the recommendation of the Selection Committee with regard to a candidate having exceptional qualifications or experience or both. In this regard, it may be noted that on 09/06/2006, a Selection Committee came to be duly constituted. The said Selection Committee was holding the field when it considered about twenty-four applications of candidates who were beyond the age of thirty-five years in the matter of granting age relaxation. In its Minutes dated 25/04/2008, it considered the cases of

said twenty-four candidates but did not find the case of any of them as having either exceptional qualifications or experience or both on the basis of which it could recommend their names for age relaxation. No candidate was therefore recommended by the Selection Committee to the Government in accordance with Rule 7 of the Recruitment Rules. Prior to the completion of recruitment, the Selection Committee came to be reconstituted on 17/06/2008. It is thereafter that on 03/07/2008 the successful candidates came to be appointed on the post of District Information Officer.

In this context, the Tribunal recorded a finding that it was not open for the Government to act without the recommendations of the Selection Committee. It further observed that the case of the aggrieved candidate for consideration of age relaxation was rejected on 29/04/2008 while the Selection Committee constituted pursuant to the Government Resolution dated 09/06/2006 was headed by the Principal Secretary, General Administration Department. It held that the case of the aggrieved



candidate for age relaxation was not considered as per the Rules and therefore the decision of the State Government not to allow the aggrieved candidate to participate in the selection process on the ground that he was over-aged was not sustainable. The Tribunal then proceeded to consider the experience of the aggrieved candidate. It observed that though he had extensive experience in various newspapers as Sub-Editor, Reporter and even as Editor, the same was not considered. It proceeded to compare the experience of the aggrieved candidate with the experience of the selected candidates in the backdrop of the contention raised by the aggrieved candidate that the selected candidates did not possess any experience of supervisory nature in a newspaper. On that premise, the Tribunal held the selection of the selected candidates to be illegal. It was of the view that the application of the aggrieved candidate for age relaxation ought to be re-considered while directing a fresh exercise of recruitment to be undertaken.

8. Since the Tribunal has set aside the selection of the selected candidates while deciding Original Application

Nos.4 and 5 of 2011, it would be necessary to consider the case set up by the aggrieved candidate. In this regard, it is material to note that according to the aggrieved candidate his application for seeking age relaxation to enable his participation in the recruitment process pursuant to Advertisement No.2 of 2008 was not being considered by the concerned Authorities. The written examination under the said advertisement was scheduled on 17/05/2008. The aggrieved candidate therefore filed Writ Petition No.3419 of 2008 before the Aurangabad Bench and by virtue of the interim order dated 16/05/2008 passed in the said writ petition, he was permitted to appear in the written examination scheduled on 17/05/2008. His results however were directed not to be declared. Pursuant to this interim order, the aggrieved candidate appeared in the written examination. The aforesaid writ petition however came to be dismissed as withdrawn on 01/07/2008 with liberty to the aggrieved candidate approach the Tribunal since an alternate remedy was available. While withdrawing the said writ petition, no direction was obtained by the

aggrieved candidate to have his result declared pursuant to his appearance in the written examination held on 17/05/2008. As a consequence, the outcome of the appearance of the aggrieved candidate in the written examination held on 17/05/2008 has not come on record. In absence of any further direction being issued in the proceedings initiated by the aggrieved candidate, he was not called for his oral interview. It is thus clear from the documents on record that having appeared in the written examination pursuant to the interim order dated 16/05/2008, there is no further direction issued by the High Court/Tribunal to declare his result. Similarly, the aggrieved candidate was not interviewed by the Selection Committee.

9. Pursuant to the liberty granted to the aggrieved candidate, he approached the Tribunal by filing Original Application No.410 of 2008. In the said proceedings he challenged the rejection of his candidature on the ground that he was treated as age-barred. Thereafter the aggrieved candidate filed Original Application No.477 of 2008

challenging the selection process as well as the selection of the selected candidates. These Original Applications were considered by the Tribunal and on 15/12/2010, the Tribunal at Aurangabad passed an order transferring the said proceedings to the Tribunal at Mumbai on the ground that the cause of action for filing the said proceedings arose within the territorial jurisdiction of the Tribunal at Mumbai. It is thereafter that the said proceedings were converted into Original Application Nos.4 of 2011 and 5 of 2011 at the Tribunal at Mumbai.

10. A perusal of the grounds raised by the aggrieved candidate in Original Application No.410 of 2008 as initially filed on 02/07/2008 and subsequently numbered as Original Application No.4 of 2011 wherein he was seeking the benefit of age relaxation is concerned, it can be seen that the aggrieved candidate has not raised any ground that his application for age relaxation was considered by a Committee that was not empowered to do so. The grounds raised by him relate to his entitlement to age relaxation on account of his exceptional qualifications and experience. It

is his case that he had better experience and better qualifications warranting grant of such age relaxation. The Tribunal however in the impugned judgment has proceeded on the premise that the Committee which considered the applications of twenty-four candidates for age relaxation was not competent to undertake such exercise and that the said issue required re-consideration.

In our view, when the aggrieved candidate did not prefer to challenge the competence of the Committee to undertake the exercise of assessment of the claims of individual candidates after which it submitted its report dated 22/04/2004 deciding not to recommend any name for age relaxation, this aspect could not have been expanded by the Tribunal by going into the competence of the said Committee. The Tribunal could not have gone beyond the case as pleaded by the aggrieved candidate. We therefore find that the Tribunal has travelled beyond the pleadings of the aggrieved candidate to record a finding that the exercise undertaken by the Committee while considering the entitlement of the aggrieved candidate for

age relaxation was not competent to do so.

11. Another relevant aspect to be noticed is that the Tribunal took upon itself the consideration of the question as to whether the aggrieved candidate had exceptional experience and qualification to enable him to be entitled for age relaxation. It considered the credentials of all twenty four candidates and thereafter proceeded to record a finding that the aggrieved candidate had extensive experience as a Sub-Editor, Reporter and Editor. By observing that none of the selected candidates possessed experience of any supervisory nature, it proceeded to hold that the claim of the aggrieved candidate had been wrongly rejected by the Committee.

We find that the Tribunal erred in itself undertaking the exercise of assessment of the comparative experience and qualification of the twenty four candidates who were overage. While doing so, it substituted its view in place of the view taken by the Committee as reflected in the minutes dated 29/04/2008. There is no finding recorded

by the Tribunal that the exercise undertaken by it while considering the cases of twenty four candidates was so arbitrary or perverse that its conclusion deserved interference. Perusal of paragraph 8 of the impugned judgment of the Tribunal indicates that the Tribunal has merely observed that the aggrieved candidate had extensive experience of a supervisory nature than the selected candidates. This alone could not have been the reason for the Tribunal to have taken upon itself the task of assessment of the respective experience and qualifications of the overage candidates. The Tribunal appears to have substituted its opinion in place of that of the Committee. In our view, the Tribunal exceeded its jurisdiction when it proceeded to undertake such exercise.

12. It is also necessary to note that the aggrieved candidate did not raise any specific challenge to Advertisement No.2 of 2008 when it earmarked three posts for women and one post for sportspersons from the four posts reserved for candidates from the open category. In

fact, the aggrieved candidate participated in the recruitment process and after the selected candidates were issued orders of appointment, he challenged their selection initially in Original Application No.477 of 2008 and thereafter in Original Application No.5 of 2011. Having failed to raise any challenge to the reservation of posts prior to participating in the recruitment process, it was not permissible to do so after having failed in succeeding in the process of recruitment. The Tribunal has gone into this aspect without going into the question as to whether it was permissible for the aggrieved candidate to raise a challenge to the reservation of posts without challenging the advertisement in which such reservation was specifically mentioned.

In our view, it was not permissible for the aggrieved candidate to first participate in the recruitment process and after failing to get selected, turn around and contend that the reservation of posts was incorrectly done. The law in this regard is well settled and reference in this regard can be made to the decisions in *Sonali Ramkrishna Bayani*,



*Chandraprakash Tiwari and Madan and Others (supra)*. The Tribunal thus committed an error in entertaining a challenge to the reservation of posts at the behest of the aggrieved candidate though he had failed to raise a challenge in that regard to the advertisement before participating in the recruitment process.

13. It is to be further noted that the Tribunal placed reliance on the underlined portion of paragraph 15 of the decision of the Supreme Court in *Renu and others Vs. District and Sessions Judge, Tis Hazari* (Civil Appeal No.979 of 2014 decided on 12/02/2014). Paragraph 15 of the said decision reads as under :-

*“15. Where any such appointments are made, they can be challenged in the court of law. The quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined, and in case the finding is that the holder of the office has no title, he would be ousted from that office by judicial order. In other words, the procedure of quo*

*warranto gives the judiciary a weapon to control the executive from making appointment to public office against law and to protect a citizen from being deprived of public office to which he has a right. These proceedings also tend to protect the public from usurpers of public office who might be allowed to continue either with the connivance of the executive or by reason of its apathy. It will, thus, be seen that before a person can effectively claim a writ of quo warranto, he has to satisfy the court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry as to whether the appointment of the alleged usurper has been made in accordance with law or not. For issuance of writ of quo warranto, the Court has to satisfy that the appointment is contrary to the statutory rules and the person holding the post has no right to hold it. (Vide University of Mysore Vs. C. D. Govinda Rao, AIR 1965 SC 491, Kumar Padma Prasad Vs. Union of India, (1992) 2 SCC 428, B. R. Kapur Vs. State of T. N., (2001) 7 SCC 231: AIR 2001 SC 3435, Mor Modern Coop. Transport Society Ltd. Vs. State of Haryana, (2002) 6 SCC 269, Arun Singh Vs. State of Bihar (2006) 9 SCC 375, Hari Bansh Lal Vs. Sahodar Prasad Mahto, (2010) 9 SCC 655, and Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo, (2014) 1 SCC 161”*

It appears that the Tribunal misdirected itself in

relying upon the aforesaid underlined portion of paragraph 15 of the decision in *Renu and others (supra)*. The proceedings filed by the aggrieved candidate were not in the nature of quo-warranto proceedings. The aggrieved candidate had sought adjudication of his case for grant of age relaxation and had thereafter challenged the selection of the selected candidates. The considerations for issuance of a writ of quo-warranto would be different from proceedings filed for agitating a right claimed while seeking consideration for appointment of a post. The Tribunal while considering the Original Applications filed by the aggrieved candidate was not entertaining any quo-warranto proceedings since no such jurisdiction is conferred on the Tribunal. We therefore find that exercise of jurisdiction by the Tribunal by relying upon the ratio of the aforesaid decision was unwarranted.

14. Once it is found that the aggrieved candidate had failed to challenge Advertisement No.2 of 2008 insofar as it provided for reservation of three posts for women and one

post for sportspersons, it was not permissible for the aggrieved candidate to subsequently challenge the selection of the selected candidates by contending that the said four posts had been wrongly reserved. Such grievance ought to have been raised prior to participating in the selection process. The Tribunal failed to notice this relevant aspect and proceeded to grant relief to the aggrieved candidate despite the fact that he had taken a chance in the selection process and was not selected. Further, the aggrieved candidate did not obtain any order either from the High Court or from the Tribunal to have his result declared pursuant to the written examination conducted on 17/05/2008. The aggrieved candidate was also not interviewed by the Selection Committee for consideration of his candidate. Yet another relevant aspect to be noted is that assuming that the aggrieved candidate was entitled to relief, the appointment of the least meritorious candidate could have been set aside. Instead, the selection of all the four selected candidates has been set aside in the absence of any challenge to the advertisement on the basis of which

the recruitment was undertaken. For all these reasons we find that the Tribunal was not justified in allowing the Original Applications preferred by the aggrieved candidate and granting him relief. The common judgment of the Tribunal therefore deserves to be interfered with.

Since we have found that the aggrieved candidate is not entitled to any relief as he had failed to challenge Advertisement No.2 of 2008 when it provided for reservation for the four posts, it is not necessary to go into the question as to whether the Non-Creamy Layer Certificates submitted by the selected candidates were valid or not. The appointing authority having examined this aspect and being satisfied that the said certificates were valid, it is not necessary to adjudicate upon the same.

15. In the light of the aforesaid discussion, the following order is passed:-

- i) The common judgment of the Tribunal dated 31/07/2015 passed in Original Application Nos.4 of 2011 and 5 of 2011 is set aside. Both

the Original Applications stand dismissed.

ii) Rule is made absolute in aforesaid terms in both the writ petitions leaving the parties to bear their own costs.

**[ RAJESH S. PATIL, J. ] [ A.S. CHANDURKAR, J. ]**