
(2005) 06 BOM CK 0035

In the Bombay High Court

Case No : Writ Petition No. 1408 of 1989

Deepak Matey and Others

APPELLANT

Vs

District and Sessions Judge

RESPONDENT

Date of Decision : 21-06-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2005) 4 ALLMR 362 : (2006) 2 BomCR 282 : (2005) 4 MhLj 552

Hon'ble Judges : N.A. Britto, J;F.I. Rebello, J

Bench : Division Bench

Advocate : A.V. Bhide, for the Appellant; A.S. Fulzele, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

F.I. Rebello, J.—The petitioners by the present petition challenges the order dated 23rd February, 1989, whereby the select list prepared on 16th October, 1983 was cancelled and advertisement issued on 22-5-1989 for fresh recruitment Rules have been framed for recruitment to ministerial posts and as also peons in the subordinate posts by resolution dated 22nd February, 1971. In terms of Rule 4 the number of candidates to be enlisted annually in such category specified in Rule (1) shall be such as to make the total number in each category equal to (a) the average temporary vacancies which occurred during the previous two years plus (b) the expected permanent vacancies during the year for which the enlistment is proposed to be made and (c) an addition of 20 per cent of (a) and (b) to meet unexpected contingencies and wastage.

2. Rule 7 sets out that the list shall be signed and dated by the members of the Advisory Committee shall continue to remain in force till it is exhausted. The conjoint reading of Rule 7 would mean that the select list have to be prepared for the vacancies which had occurred, likely to be occurred and in addition 20 per cent in the event candidates selected do not join on account of unexpected contingencies. Rule 7, therefore, will have to be read along with Rule 4 would mean that the select list would be valid till the candidates are appointed to the

vacancies, which have to be filled in terms of Rule 4. It does not mean, once a list is prepared, that list must remain in force for all times as that would be contrary to Articles 14 and 16 of the Constitution of India as candidates who otherwise became eligible, on account of said Rules would not be entitled, though eligible and qualified to apply for vacancies, which may arise in subsequent years after the select list was prepared. It will be proper to hold that that the list should be in force for such time till vacancies which are to be contended in terms of Rule and are filled in. In the light of that we find no merits in this petition. The interim order granted stands vacated.

Rule discharged.

No order as to costs.