CNR No : HCBM010252162026

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6676 OF 2026

Roma Laxman Tribhuwan & Ors. .... Petitioners

versus

The State of Maharashtra & Ors. .... Respondents

.....

- Dr. Uday Warunjikar a/w Mr. Sumit Kate, Sonali Chavan, Parth Deshpande, Ms. Sakshi Inamdar & Ms. Aishwarya Tuwar, Advocate for Petitioner.
- Mr. O. A. Chandurkar, Addl. GP a/w Mrs. G. R. Raghuwanshi, AGP for State & MPSC.
- Dr. Milind Sathe, Senior Advocate a/w Mr. Shailendra Kanetkar for Respondent No.4.

CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 04th NOVEMBER, 2026

P.C. :

1. Heard Dr. Uday Warunjikar, learned Counsel for the Petitioners, Dr. Milind Sathe, Senior Advocate, learned counsel for the Respondent No.4 and Mr. O. A. Chandurkar, Addl. GP a/w Mrs. G. R. Raghuwanshi, AGP for State & MPSC.

2. Rule. Rule is made returnable forthwith by consent of the parties.

MANUSHREE NESARIKAR

Digitally signed by MANUSHREE NESARIKAR
Date: 2026.11.04 20:27:18 +0530

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

3. The Petition is filed with the main three prayers as follows :

> "a) Be pleased to hold and declare that the category of Assistant Public Prosecutor is at par with the ministerial staff under Clause 3(c) of Table (C) of Rule 5 of the Maharashtra Judicial Service Rules, 2008 and Maharashtra Judicial Service (Amended) Rules, 2025. Further, be pleased to hold and declare that the non inclusion of the category of Public Prosecutors under Clause 3(c)(i) of Table (C) of Rule 5 of the Maharashtra Judicial Service Rules, 2008 and Maharashtra Judicial Service (Amended) Rules, 2025 is arbitrary, unreasonable, discriminatory, and unconstitutional, and consequently be pleased to direct to include the same by issuing an appropriate writ, order, or direction.
>
> b) Be pleased to call for the record and proceedings of the Advertisement 13 of 2026 dated 30/04/2026 issued by the Respondent herein and, after examining the legality, validity, and propriety thereof, be pleased to direct the Respondent to create a separate

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

category for Public Prosecutors under Clause 7.2 of the said advertisement for Assistant Public Prosecutor.

c) Further, be pleased to hold and declare that the cut-off date prescribed under Paragraph 7.5.2 of the said advertisement is arbitrary, unreasonable, discriminatory, and unconstitutional, and consequently be pleased to strike down the same by issuing an appropriate writ, order, or direction and in view thereof, the Petitioners further pray that they be held eligible and considered for appointment to the posts of Civil Judge, Junior Division and Judicial Magistrate First Class pursuant to the recruitment process initiated by the Maharashtra Public Service Commission under Advertisement 13 of 2026.

4. It is the case of the Petitioner that she is a law graduate from Pune University. She obtained her degree in the year 2007. She enrolled with the Bar Council of Maharashtra and Goa on 02/08/2007.

5. The Petitioner was appointed and is currently working as an Assistant Public Prosecutor since 06/01/2025 in the Court

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

of Civil Judge Senior Division and Additional Chief Judicial Magistrate, Court Room No.3. She is desirous of appearing for the examination for the post of Judicial Magistrate First Class. The recruitment process is governed under the provisions of the Maharashtra Judicial Services Rules, 2008, as amended in 2025. The said Rules provide eligibility criteria for the recruitment process. There are separate categories for advocates and ministerial staff.

6. From the record her date of birth is 14/10/1983. Her grievance is twofold ;

Her first grievance is that the recruitment process for the year 2024 was undertaken in the year 2026, and therefore, she has lost two years for no fault of her. And therefore, benefit should be given to her though she has crossed the age limit prescribed for her category as an advocate.

Her second grievance is that the rules unfairly makes two different categories for ministerial staff and advocates. If her post as an Assistant Public Prosecutor is considered, as it should be as ministerial staff, then she would still be within the age

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

limit for participating in the selection process. It is mentioned that the selection process has started vide the Advertisement No.013/2026, dated 30/04/2025.

7. Dr. Uday Warunjikar submitted that, if the selection process was started by MPSC two years after 2024, the benefit should be given to the Petitioner. He added that the post of Assistant Public Prosecutor would fall within the meaning of ministerial staff, and therefore, even otherwise, she would be entitled. He submitted that the phrase "ministerial staff" is not defined under the Rules.

8. Learned counsel Dr. Milind Sathe, appearing for the Respondent No.4, i.e. the Administration of this Court, and Mr. O. A. Chandurkar, appearing for Respondent Nos. 1 to 3, State and MPSC, opposed these submissions. They submitted that the Petitioner had completed 40 years of age much prior to 31/12/2023, and therefore, there was no question that she could be held eligible in the selection process, which was due for the year 2024. They further submitted that the post of Assistant

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

Public Prosecutor cannot be covered within the meaning of ministerial staff, which was meant only for the staff of the High Court and subordinate Courts. There are separate categories specifically mentioned in the said Rules.

9. We have considered these submissions. It is necessary to refer to the provisions of the Maharashtra Judicial Service Rules, 2008. Chapter III provides for the rules of recruitment process. Table C under Chapter III provides different eligibility criteria for different posts. The post of Civil Judge Junior Division is at Serial No.3. The age criteria refers to the date of publication of the advertisement, and it is provided that the candidate, as on the date of publication of the advertisement, must not be less than 21 years and not more than 35 years in the case of advocates with three years practice, not more than 25 years in the case of fresh law graduates, and not more than 45 years in the case of ministerial staff, provided that the upper age limit under all these categories can be relaxed by 5 years in respect of candidates belonging to communities recognised as backward by the Government for the purpose of recruitment.

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

10. Thus, from the above age criteria, since the Petitioner belongs to the SC category, the outer limit for satisfying the age criteria would be 40 years, if she is treated under the category of advocates and would be 50 years if she is treated in the category of ministerial staff.

11. If the Petitioner is to be treated in the category of advocates, which, in our opinion, would be the correct category for her as an Advocate having requisite number of practice, then the outer limit for her age criteria would be 40 years on the date of publication of the advertisement. Admittedly, on the date of publication of the advertisement, she was more than 42 years and 6 months.

12. Therefore, she was outside the upper limit for age criteria at the time of publication of the advertisement. The Petitioner has raised a contention that it was not her fault that the selection process started much later and that the selection process for the year 2024 started in the year 2026. At this stage, we are not deciding this particular issue. But, even otherwise,

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

she had crossed the age of 40 years before December 2023. Therefore, she had crossed the upper age limit in the year 2024 itself. Therefore, in either case, in the category of advocates eligible to participate in the selection process, she was not eligible.

13. The other contention raised by the Petitioner was that she could be treated under the category of ministerial staff and in that case the upper age limit would be 50 years, considering that she belongs to the SC category.

14. We are unable to agree with this submission and this ground as well. The said category is specifically described, and it is provided that such a candidate must be a member of the ministerial staff :

1. of High Court or Courts subordinate thereto; or
2. of Offices of Government Pleaders attached to those Courts; or
3. working as Legal Assistant and above in the Legal Section of the Law and Judiciary Department in Mantralaya provided such employee has put in a minimum three years of service after obtaining Degree in Law.

Uploaded on - - Downloaded on - 04/11/2026 22:35:51

15. These three categories themselves show that ministerial staff is distinct from Government Pleaders office because the second category specifically mentions the ministerial staff of the offices of Government Pleaders attached to those Courts. The post of Assistant Public Prosecutor is separate from the description of ministerial staff. Therefore, in our opinion, the post of Assistant Public Prosecutor cannot be described as a member of the ministerial staff. Therefore, on that count also, she does not get any benefit.

16. The Petitioner could not demonstrate as to how these rules were arbitrary, unreasonable and discriminatory.

17. Considering the above discussion, we do not find any merit in the Petition. Accordingly, the Petition is dismissed.

18. The Rule is discharged.

(RANJITSINHA RAJA BHONSALE, J.) (SARANG V. KOTWAL, J.)

Uploaded on - - Downloaded on - 04/11/2026 22:35:51