

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1106 OF 2019
(Subject – Police Patil)**

DISTRICT : JALGAON

Sanjay S/o Raghunath Koli,)
Age : 40 years, Occu. : Nil,)
R/o. Village Krishnapur, Tq. Chopda,)
Dist. Jalgaon.)
.... **APPLICANT**

V E R S U S

1. The Sub Divisional Officer,)
Amalner, Dist. Jalgaon.)
... **RESPONDENT**

APPEARANCE : Shri Sunil B. Jadhav, Advocate for the
Applicant.
: Shri M.P. Gude, Presenting Officer for
Respondents.

CORAM : **SHRI V.D. DONGRE, MEMBER (J).**
DATE : **13.06.2022.**

O R D E R

1. The present Original Application is filed challenging the impugned communication / order dated 06.04.2017 (Annexure-A) issued by the respondent i.e. the Sub-Divisional Officer, Amalner, thereby terminating / removing the applicant from the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon.

2. The facts in brief giving rise to this applicant can be summarized as follows :-

(a) The applicant is resident of village Krishnapur, Tq. Chopda, Dist. Jalgaon. He was appointed as Police Patil on 13.06.2006 of the said village for the period of 10 years as reflected in Extract (Annexure-B) maintained by the respondent in respect of appointment of Police Patil. By the impugned order dated 06.04.2017 (Annexure-A), the applicant's services as Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon are discontinued by referring to the Government Notification dated 23.11.2016 (Annexure-C).

(b) In fact, by the earlier Notification dated 09.06.2014 (Annexure-D), the Government ordered that the certain posts in Scheduled Areas shall be filled in by local candidates of the Scheduled Tribes, which did not include the post of Police Patil. By the Government Notification dated 09.06.2016 (Annexure-E) the post of Cook (Swayampaki), Laboratory Attendant (Prayogshala Parichar) and Kamathi were added. The post of Police Patil is added only by the Notification dated 23.11.2016 (Annexure-C). The amendment made in the initial Notification dated

09.06.2014 (Annexure-D) by the Notification dated 23.11.2016 (Annexure-C) is having prospective effect i.e. from 23.11.2016. That is so reflected in the communication dated 19.04.2018 (Annexure-F) issued by the Under Secretary, Government of Maharashtra to the query in that regard raised by the Divisional Commissioner, Nagpur. In view of the same, the Notification dated 23.11.2016 (Annexure-C) cannot be made applicable for terminating / removing the applicant from the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon.

(c) It is further contended that the respondent authority issued advertisement No. 01/2018 dated 04.05.2018 (Annexure-G) calling upon the applications for the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon. However, no eligible candidate from Scheduled Tribe category was available. Therefore, re-advertisement was issued bearing No. 03/2018 dated 28.08.2018 (Annexure-H). There was not response to that advertisement also. In view of the same, the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon is still vacant and the applicant is entitled to hold the said post. Hence, the present Original Application.

3. The affidavit in reply is filed on behalf of respondent by one Anil S/o Jalu Gavit, working as Tahildar in the Tahsil Office, Chopda, Dist. Jalgaon, thereby he denied all the adverse contentions raised in the Original Application. It is specifically contended that by the Notification dated 23.11.2016 published by the Hon'ble Governor, the appointment of certain posts in Scheduled areas is governed and is directed to appoint the persons of local Scheduled Tribes to that posts. The post of Police Patil was included in the said Notification. In view of that Notification only the services of the applicant as Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon were terminated by the impugned order dated 06.04.2017 rightly and in accordance with law. Therefore, the present Original Application is liable to be dismissed .

4. I have heard the arguments advanced at length by Shri Sunil B. Jadhav, learned Advocate for the applicant on one hand and Shri M.P. Gude, learned Presenting Officer for the respondent on the other hand.

5. During the course of arguments the learned Advocate for the applicant submitted that before issuance of the impugned order dated 06.04.2017 (Annexure-A) terminating / removing the

applicant from the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon, renewal process for the post of Police Patil was started by the respondent by issuing communication dated 29.03.2016 (Annexure-I). The said communication is addressed to the various Police Stations calling reports in respect of Police Patil of various villages to consider the continuation / extension. In the said communication, the name of the applicant is at Sr. No. 18. He further invited my attention to the document dated 01.06.2016 (Annexure-J), which is a communication from the Police Inspector, Chopda Rural Police Station addressed to the respondent. Thereby no objection is given for appointment of various Police Patils including the applicant, whose name is at Sr. No. 12 in the said communication. However, thereafter by the impugned order dated 06.04.2017 (Annexure-A), the applicant has been removed / terminated from the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon and he was not given extension.

6. Upon perusal of the communication dated 19.04.2018 (Annexure-F) addressed by the Under Secretary, Government of Maharashtra to the Divisional Commissioner, Nagpur, it is evident that the post of Police Patil is included by the Notification dated 23.11.2016 for appointing the eligible candidate from

Scheduled Tribe in the Scheduled Area and the same is applicable prospectively and it is not applicable to fill up the post of Police Patil in accordance with law prior to 23.11.2016. Otherwise also upon perusal of the said Notification dated 23.11.2016 (Annexure-C), it does not appear that it is made applicable retrospectively. In these circumstances, the process of giving extension in accordance with law to the applicant to post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon is saved and is required to be considered in accordance with law.

7. It is also a fact that two advertisements were issued by the Government in the year 2018 to fill up the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon from Scheduled Tribe candidates. However, no eligible candidates were found and therefore, the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon is still vacant.

8. In the circumstances as above, I hold that the impugned communication / order dated 06.04.2017 (Annexure-A) terminating / removing the applicant from the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon is not legal and proper and is liable to be quashed and set aside. I therefore, proceed to pass following order :-

ORDER

The Original Application No. 1106/2019 is allowed in following terms :-

(A) The impugned communication / order dated 06.04.2017 (Annexure-A) terminating / removing the applicant from the post of Police Patil of village Krishnapur, Tq. Chopda, Dist. Jalgaon is hereby quashed and set aside.

(B) No order as to costs.

PLACE : AURANGABAD.
DATE : 13.06.2022.

(V.D. DONGRE)
MEMBER (J)

KPB S.B. O.A. No. 1106 of 2019 VDD Police Patil