

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 396 OF 2019

DIST. : JALGAON

Mohan Kautik Medhe,)
Age. 48 yrs., Occu. Agricultural Labour,))
R/o Navin Gaon, Seed Farm,))
Muktainagar, Tq. Muktainagar,))
Dist. Jalgaon.) -- APPLICANT

V E R S U S

1. The State of Maharashtra,)
Through : Principal Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai - 32.))
2. The Collector, Jalgaon.))
3. The Sub Divisional Officer (Revenue)
Bhusawal, Tq. Bhusawal,))
Dist. Jalgaon.) -- RESPONDENTS

APPEARANCE :- Shri Suresh D. Dhongde, learned Advocate
for the applicant.
: Smt. M.S. Patni, learned Presenting Officer
for the respondents.

CORAM : Hon'ble Shri B.P. Patil, Acting Chairman

DATE : 2nd March, 2020

O R A L - O R D E R

1. The applicant has challenged the order dtd. 21.12.2018 issued by the respondent no. 3 thereby terminating his services as a Police Patil of village Muktainagar, Tq. Muktainagar, Dist. Jalgaon and prayed to quash and set aside the same and also

prayed to direct the respondents to continue his appointment as a Police Patil till the date of his retirement on superannuation i.e. till 23.5.2029, by filing the present O.A.

2. The applicant was initially appointed as a Police Patil of village Muktainagar, Tq. Muktainagar, Dist. Jalgaon for the period from 24.2.2003 to 23.3.2008 in view of the order passed by this Tribunal in O.A. no. 1143/2003 dated 10.1.2003. Accordingly the applicant started discharging duties as a Police Patil of the said village. After completion of his tenure as Police Patil his appointment has been renewed by the order dtd. 12.5.2008 for the period of 10 years and he was continued on the post of Police Patil w.e.f. 23.3.2008 to 22.3.2018. It is contention of the applicant that his date of retirement on superannuation is 23.5.2029. His second term on the post of Police Patil of village Muktainagar was going to complete on 22.3.2018. Therefore on 5.3.2018 he made an application with the respondents and requested to extend the period of his appointment as a Police Patil, but the respondent no. 4 has not given response to it. Therefore, he filed another applications 12.6.2018, 25.6.2018, but no response has been given by the respondents to it. On 14.9.2018 the District Collector forwarded a letter to the respondent no. 3 the Sub Divisional Magistrate, Bhusawal to take appropriate action on the

application of the applicant dtd. 25.6.2018. Not only this, but on 16.10.2018 the Deputy Commissioner, Nasik had also informed the respondent no. 2 to take appropriate steps in the matter. It is his contention that on 5.12.2018 he again made another application to the respondents and prayed to continue his services as a Police Patil. Thereafter the respondent no. 3 has passed the impugned order on 21.12.2018 and terminated the services of the applicant as a Police Patil of village Muktainagar without giving him an opportunity of hearing on the ground that in the T.A. No. 2778/1991 (writ petition No. 205/1990) decided on 1.2.2002 this Tribunal has held that no work is available to the Police Patil at places where the Police Station / Police Chouki / Out Post is created. Therefore, this Tribunal rejected the T.A. no. 2778/1991 (W.P. No. 205/1990) filed by the Association of the Police Patils. It is contention of the applicant that the impugned order is illegal and against the provisions of the rules. It is his contention that so many Police Patils have been appointed on the post of Police Patil at the places where the police station / police chowki/ Out Post are established / created, but the respondent no. 3 had not considered the said aspect and terminated the services of the applicant. It is his contention that one Shri Bhika Shamrao Ahire has been continued on the post of Police Patil by the order dtd. 5.1.2016 at the place where the police station / police chowki/

Out Post is situated. It is his contention that he has collected the information under Right to Information Act, 2005 and during the information supplied by the concerned authority it was disclosed that Smt. Manisha Arvind Bavaskar was continued on the post of Police Patil for the period from 1.4.2016 to 30.4.2021. One Shri Kishor Shripat Medhe was continued on the post of Police Patil for the period from 11.5.2014 to 10.5.2024 and Shri Vijay Pundlik Patil was continued on the post of Police Patil for the period from 1.5.2016 till 30.4.2021. It is his contention that the respondents had passed the impugned order discriminating the applicant and therefore it is illegal.

3. It is his contention that on 7.1.2019 the Police Inspector recommended his name for appointment on the post of Police Patil as his work was good. On 15.1.2019 the villagers of Muktainagar made a representation to the Sub Divisional Officer, Bhusawal to appoint the applicant on the post of Police Patil of village Muktainagar. It is his further contention that on 11.1.2019 the S.C. / N.T. Commissioner asked the Collector to submit his report regarding the grievance of the applicant. It is his contention that the Police Patils Association by its letter dtd. 16.1.2019 recommended his case for appointment on the post of Police Patil to the Sub Divisional Officer, Bhusawal. It is his contention that

he challenged order dtd. 21.12.2018 before the Collector, Jalgaon, but the Collector, Jalgaon rejected the same on the ground that it was not maintainable. In fact, the order passed by the Sub Divisional Officer is appealable and can be challenged before the Collector. But the Collector has wrongly rejected the same. The impugned order is illegal and against the provisions of rules. Therefore he prayed to quash the impugned order and allow him to continue on the post of Police Patil of village Muktainagar till attaining the age of retirement on superannuation i.e. till 23.5.2029, by allowing the present O.A.

4. The respondent nos. 2 and 3 have filed their affidavit in reply and resisted the contentions of the applicant. They have not disputed the fact that the respondent no. 3 has passed the impugned order. It is their contention that the respondent no. 3 has passed the impugned order after considering the decision rendered by this Tribunal in T.A. No. 2778/1991 (writ petition No. 205/1990) decided on 1.2.2002. It is their contention that the impugned order is legal and it is in accordance with the provisions of law. It is their contention that the then Sub Divisional Officers had no knowledge about orders passed by the Tribunal and therefore appointment orders / continuation orders have been given to other Police Patils as stated by the applicant. The

respondent no. 3 has passed the impugned order correctly considering the decisions of this Tribunal. It is their contention that the respondent no. 2 had rightly rejected the appeal of the applicant as there is no provision of appeal in such matters. It is their contention that there is no discrimination made by the respondents while rejecting the request of the applicant and terminating his services. Therefore they justified the impugned order and prayed to reject the O.A.

5. I have heard the arguments advanced by Shri Suresh D. Dhongde, learned Advocate for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondents. I have gone through the documents placed on record.

6. Admittedly the applicant was initially appointed as a Police Patil of village Muktainagar, Tq. Muktainagar, Dist. Jalgaon for the period of five years w.e.f. 24.2.2003 to 23.3.2008 in view of the order passed by this Tribunal in O.A. no. 1143/2003 dtd. 10.1.2003. Admittedly, after completion of his said tenure he was continued on the said post for further 10 years by the order dtd. 12.5.2008 for the period from 23.3.2008 to 22.3.2018. Admittedly after completion of the said tenure the applicant made applications to the respondent no. 3 for continuation of his appointment on the said post by renewing the earlier appointment

order. The respondent no. 3 rejected the applications of the applicant and terminated his services by the impugned order dtd. 21.12.2018.

7. Learned Advocate for the applicant has submitted that the applicant's second tenure for the period from 23.3.2008 to 22.3.2018 expired on 22.3.2018. Prior to that on 5.3.2018 the applicant moved an application for renewal of his appointment on the post of Police Patil of village Muktainagar to the respondent no. 3. He has submitted that the respondent no. 3 had not taken any decision thereon. Therefore the applicant filed several applications with the respondents with same request. As the respondent no. 3 had not taken decision on the applications submitted by the applicant, the Collector, Jalgaon informed the respondent no. 3 to take appropriate decision on the applications of the applicant. Thereafter the applicant again moved another application dtd. 5.12.2018 and requested the respondents to permit him to continue on the post of Police Patil. Thereafter the respondent no. 3 passed the impugned order dtd. 21.12.2018 and terminated the services of the applicant. He has argued that the respondent no. 3 has relied on the decision of this Tribunal in T.A. No. 2778/1991 (writ petition No. 205/1990) decided on 1.2.2002 while rejecting the request of the applicant. He has submitted

that other Sub Divisional Officers in the same District granted extension to the appointments of other Police Patils though police station / police chowki/ Out Post were situated at those places. But the respondent no. 3 discriminated the applicant and rejected his claim on the ground that Police Station is situated at Muktainagar and the post of Police Patil at Muktainagar has been abolished. It is his submission that the impugned order is illegal. Therefore, he prayed to quash the impugned order by allowing the present O.A.

8. Learned Presenting Officer has submitted that the respondent no. 3 has considered the various G.Rs. and decisions of the Government as well as the decision of this Tribunal in T.A. No. 2778/1991 (writ petition No. 205/1990) decided on 1.2.2002 and rejected the claim of the applicant and terminated his services. She has argued that the post of Police Patil at Muktainagar has been abolished by the Government as there is Police Station at Muktainagar. The Government took a policy decision regarding abolition of the post of Police Patil and therefore no continuation has been given to the applicant at Muktainagar. In fact, the applicant cannot claim appointment / re-appointment or continuation on the post of Police Patil, which is not in existence. She has argued that the respondent no. 3 has

rightly considered the said aspect and rejected the request of the applicant. It is her further submission that there is no illegality in the impugned order. Therefore, she supported the impugned order and prayed to reject the O.A.

9. On perusal of record it reveals that the applicant was initially appointed as a Police Patil of village Muktainagar, Tq. Muktainagar, Dist. Jalgaon for the period of five years w.e.f. 24.2.2003 to 23.3.2008 in view of the order passed by this Tribunal in O.A. no. 1143/2003 dtd. 10.1.2003. After completion of the said tenure he was continued on the post for the period of 10 years commencing from 23.3.2008 to 22.3.2018 by the order dtd. 12.5.2008 issued by the respondent no. 3. Prior to completion of his second term on 22.3.2018, he submitted an application to the respondent no. 3 on 5.3.2018 and requested to extend the period of his appointment as a Police Patil. But the respondent no. 3 has not given response to it. Therefore, he filed another applications dtd. 12.6.2018, 25.6.2018 and 5.12.2018 with the same request to the respondents, but the respondents rejected his request by the impugned order. The respondent no. 3 quoted various Circulars issued by the Government and the decision of this Tribunal in T.A. No. 2778/1991 (writ petition No. 205/1990) decided on 1.2.2002 and rejected the applications of

the applicant on the ground that in view of the decision of the Government the post of Police Patil at the places where police station / police chowki/ Out Post have been established, has been abolished. Therefore the applicant cannot be continued on the post of Police Patil at Muktainagar as the post of Police Patil has been abolished. Therefore the respondent no. 3 relieved the applicant from the post of Police Patil after completion of his second term.

10. On perusal of the impugned order it reveals that the Government issued the Circular dtd. 30.9.1986 abolishing the post of Police Patil situated at the places where the police station / police chowki/ Out Post are available. The said Circular has been stayed by the Government by issuing another Circular dtd. 8.7.1987. On 12.6.1989 the Government issued another Circular directing the authorities not to appoint Police Patil at the places where the police station / police chowki/ Out Post are situated. The said Circular dtd. 12.6.1989 has been challenged by the Association of the Police Patils before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad by filing writ petition No. 205/1990 and the Hon'ble High Court granted interim stay to the said Circular. Therefore the Government issued the Circular dtd. 16.10.1990 and stayed the implementation of the

Circulars dtd. 30.9.1986 and 12.6.1989 till further orders. The writ petition no. 205/1990 has been transferred to this Tribunal and it was renumbered as T.A. no. 2778/1991. The Government issued Circular dtd. 6.1.1994 and clarified that the appointments of the Police Patils made will be subject to the decision in T.A. No. 2778/1991 (writ petition No. 205/1990). This Tribunal decided the said T.A. / W.P. on 1.2.2002 and upheld the Circulars dtd. 12.6.1989 and 30.9.1986 issued by the Government and dismissed the T.A. / W.P. The said decision has not been challenged before the appropriate forum. This Tribunal while dismissing the T.A. / W.P. on 1.2.2002 has observed as follows :-

“2. The petitioners who were formerly working as Police Patils at their respective villages, are challenging the circular issued by the Government dated 12.6.1989 and 30.9.1986 whereby the Govt. took a policy decision that the post of Police Patils at places where Police Thanas / Police Choukis / Police Stations have been created, shall stand abolished. We find that the petition is meritless. In fact, we have already disposed of such a petition i.e. T.A. No. 2812/1991 on 17.1.2002. We have taken a view that continuance or the abolition of a particular post is the prerogative of policy makers. The Government decides the policy. Furthermore, it stands to reason to take such a policy decision. Police Patil does not have any job to perform once a Police Station / Police

Chowki / Out Post is created at the said place. Petition is meritless. Hence dismissed.”

11. This Tribunal has relied on the earlier decision given by this Tribunal in T.A. no. 2812/1991 dtd. 17.1.2002. It has been held by this Tribunal that continuance or absorption on a particular post is the prerogative of policy makers. The Government decides the policy. Furthermore, it stands to reason to take such a policy decision. Police Patil does not have any job to perform once a police station / police chowki / Out Post is created at the said place. The Government took the policy decision regarding the Circulars dtd. 30.9.1986 and 12.6.1989 and abolished the post of Police Patil at the places where the police station / police chowki / Out Post has been created. Once the post of Police Patil has been abolished no question of making appointment of any person on such posts arises. In fact, the post of Police Patil at Muktainagar has been abolished since the Police Station has been established there. There is nothing on record to show when Police Station has been established at Muktainagar. But while passing the impugned order it has been mentioned that Police Station is situated at Muktainagar and therefore renewal or continuation of the applicant on the post of Police Patil, Muktainagar cannot be granted in view of the above said Circulars. Once the post has

been abolished nobody can claim appointment / continuation / renewal on the said post. On completion of 10 years on the post of Police Patil at Muktainagar on 22.3.2018, the applicant cannot claim continuation on the said post as the post of Police Patil at Muktainagar has been abolished on creation of Police Station at the said place. The respondent no. 3 has rightly considered all these aspects and terminated the services of the applicant and refused to renew or continue the appointment of the applicant on the said post by passing the impugned order.

12. I find no illegality in the impugned order. The applicant has no right to claim continuation on the said post of Police Patil, Muktainagar when the said post is abolished. Therefore, I find no fault in the order passed by the respondent no. 3. Therefore no interference in the impugned order is called for. There is no merit in the present O.A. Consequently it deserves to be dismissed.

13. In view of the discussion in foregoing paragraphs the present Original Application stands dismissed. There shall be no order as to costs.

(B.P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 2nd March, 2020