

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 460 OF 2017

DIST. : JALGAON

Suvarna Bhikan Ghodke,)
Age. 26 years, Occu. : Nil,)
R/o Vadgaon Ambe, Tq. Pachora,)
Dist. Jalgaon.) .. **APPLICANT**

V E R S U S

1. The State of Maharashtra,)
Through its Secretary,)
Revenue Department having)
Office at Mantralaya,)
Mumbai - 32.)
2. The District Collector,)
Collector Office, Jalgaon.)
3. The Sub Divisional Officer,)
Pachora Division, Pachora,)
Dist. Jalgaon.)
4. Smt. Rekha Divakar Patil,)
Age. 38 years, Occu. Agri.,)
R/o Vadgaon Ambe,)
Tq. Pachora, Dist. Jalgaon.) .. **RESPONDENTS**

APPEARANCE :- Shri S.R. Dheple, learned Advocate for the
applicant.
: Shri I.S. Thorat, learned Presenting Officer
for the respondents.

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

RESERVED ON : 29th November, 2019

PRONOUNCED ON : 3rd December, 2019

ORDER

1. The applicant has challenged the recruitment process of Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon and the appointment order dtd. 20.6.2017 issued by the respondent no. 3 in favour of the respondent no. 4 appointing her as a Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon, by filing the present Original Application. She has also prayed to direct the respondent no. 3 to appoint her as a Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon.

2. The applicant is permanent resident of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon. She has completed her graduation in Commerce faculty. On 2.11.2015 the res. no. 3 published online advertisement / proclamation to fill up the post of Police Patil for various villages in sub division Pachora, Dist. Jalgaon including the post of Police Patil of village Vadgaon Ambe. The post of village Vadgaon Ambe was reserved for General woman category. As the applicant was eligible for the post of Police Patil of village vadgaon Ambe, Tq. Pachora, she filed online application. The respondent no. 4 has also applied for the said post from the same category. Thereafter they participated in the recruitment process and appeared for written examination, which was held on 13.12.2015. The applicant secured 48 marks out of 80 in the

written examination. The respondent no. 3 had published the result of the examination and called three candidates, who secured highest marks in the written examination, for verification of documents and oral interview. He has not called the applicant for verification of documents and oral interview though she secured highest marks amongst those candidates who appeared for written examination. The respondent no. 3 called three other candidates, who have secured less marks than the applicant in the written examination, for verification of documents and oral interview. The respondent no. 3 has called those candidates to produce documents for verification before the oral interview. As the name of the applicant has not appeared in the list of the candidates who were called for verification of documents and oral interview, she submitted written representations on 28.12.2015 and 30.12.2015 to the respondent nos. 2 & 3 respectively contending that she has secured more marks than other three candidates who have been called for submission of documents for verification and oral interview. But the respondent no. 3 has not paid heed to her applications. Therefore the applicant filed O.A. no. 12/2016 before this Tribunal seeking directions that the respondents be directed to call her for interview for the post of Police Patil of village Vadgaon Ambe, tq. Pachora, Dist. Jalgaon and also sought declaration that she is eligible for the post. This

Tribunal while issuing notice to the respondents on 8.1.2016 granted interim relief infavour of the present applicant and directed the respondent no. 3 to allow the applicant to participate in the oral interview which was scheduled on 11.1.2016 and conduct her oral interview in accordance with law. In view of the order of the Tribunal in O.A. no. 12/2016 the respondent no. 3 informed the applicant to submit her non creamy layer certificate before 15.1.2016 by the communication dtd. 11.1.2016. Accordingly, the applicant produced the said certificate on 14.1.2016 before the respondent no. 3.

3. It is contention of the applicant that despite the said fact the respondent no. 3 passed the order on 20.5.2017 during the pendency of O.A. no. 12/2016 and disqualified the applicant from the recruitment process for the post of Police Patil of village Vadgaon Ambe, tq. Pachora, Dist. Jalgaon on the ground that she has mentioned 'No' answer against the column no. 14, in her online application. Thereafter the respondent no. 3 passed another order on 8.6.2016 and held that the applicant is qualified for the post of Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon from general women category and cancelled the earlier order dtd. 20.5.2016. It has been further observed that the applicant will be allowed to participate in the next process of the

recruitment and final decision will be taken on the basis of marks secured by the candidates. It is her contention that the oral interview was conducted on 17.3.2016. It is her contention that the respondent no. 3 has called three candidates, who secured highest marks for appointment of Police Patil in other villages. But in the instant case the respondent no. 3 intentionally and deliberately has not included the name of the applicant in the list of the candidates, who were called for oral interview, and included the name of respondent no. 4 and other candidates, who had secured less marks than the applicant. It is contention of the applicant that the respondent no. 4 has also mentioned answer 'No' in column no. 14 in her online application stating that she does not possess non creamy layer certificate. But the respondent no. 3 has not considered that aspect and intentionally & deliberately called four candidates for oral interview so far as village Vadgaon Ambe, Tq. Pachora is concerned, though he has called three candidates for one post (i.e. in the ratio of 1:3) for the oral interview for other villages.

4. It is further contention of the applicant that thereafter on 20.6.2017 the respondent no. 3 published final selection list for the post of Police patil of village Vadgaon Ambe, Tq. Pachora and selected the respondent no. 4 for the post of Police Patil of village

Vadgaon Ambe, Tq. Pachora. It is her contention that though she and the respondent no. 4 secured same aggregate marks i.e. 58 each, the respondent no. 4 has been appointed on the post of Police patil on the basis of age criteria and the name of the applicant is kept on waiting list. It is her contention that on the same day the respondent no. 3 issued appointment order in favour of the respondent no. 4. It is contention of the applicant that on 20.6.2017 and 21.6.2017 she raised objection before the respondent no. 3 contending that the respondent no. 4 is having more income than the prescribed limit for non creamy layer and her husband is also running drip irrigation agency and also pointed out that though she has got less marks in the written examination as compared to other candidates, she has been selected and appointed on the post of Police Patil of village Vadgaon Ambe, Tq. Pachora. She produced documents in support of her contentions before the respondent no. 3, but the respondent no. 3 has not considered her request. Therefore she approached this Tribunal by filing the present O.A. and prayed to quash the selection and appoint of respondent no. 4 on the post of Police Patil of village Vadgaon Ambe, Tq. Pachora made by the respondent no. 3 and also prayed to direct the respondent no. 3 to appoint her on the post of Police Patil of village Vadgaon Ambe, Tq. Pachora. It is contention of the applicant that the respondent

no. 3 has not considered the rules and documents properly and therefore he has wrongly declared the respondent no. 4 as selected candidate. Therefore, she approached this Tribunal and prayed to quash the impugned order by allowing the present O.A.

5. Respondent no. 3 has resisted the contentions of the applicant by filing his affidavit in reply. He has not disputed the fact that the applicant and the respondent no. 4 participated in the recruitment process and they appeared for the written examination. He has admitted the fact that the applicant has secured 48 marks out of 80 in the written examination and other three candidates who were called for oral interview secured less marks than her. He has admitted the fact that other three candidates who secured less marks in the written examination have been called for oral interview but the applicant was not called for oral interview as she was ineligible. He has admitted the fact that the applicant approached this Tribunal by filing O.A. no. 12/2016 challenging the act of the respondent no. 3 declaring her ineligible for oral interview. The respondent no. 3 had admitted the fact that in view of the interim order passed by the Tribunal in the said O.A. the respondent no. 3 conducted oral interview of all the candidates including the applicant though she was not ineligible. It is contention of the respondent no. 3 that the result

of the oral interview was withheld till further orders. He followed the directions given by the Tribunal. It is contention of the respondent no. 3 that the applicant raised objection before the respondent no. 2 regarding non inclusion of her name in the list of the eligible candidates to be called for oral interview by her application dtd. 28.12.2016. It is his contention that the applicant has not mentioned in the online application that she is eligible to take benefit of the woman reservation category and therefore her name was not included in the list of the eligible candidates for verification of the documents and oral interview. It is his contention that as per the schedule program on 11.1.2016 the candidates who held eligible for oral interview were called for verification of documents. As per the directions of this Tribunal the applicant was also called to produce the documents for verification by issuing notice dtd. 11.1.2016 and directed to produce non creamy layer certificate on or before 15.1.2016. The applicant submitted non creamy layer certificate on 14.1.2016. Thereafter oral interview of all the candidates including the applicant has been conducted on very same day and the result was kept in sealed envelope. Thereafter after disposal of O.A. no. 12/2016 final mark list has been published on 20.6.2017. As per the result the respondent no. 4 as well as the applicant have secured 58 marks each in aggregate. As both the candidates i.e.

the applicant and the respondent no. 4 have secured equal marks, in view of the clause no. 21 of the advertisement the age criteria has been applied while making final selection for the post of Police Patil. The date of birth of the respondent no. 4 is 19.12.1979, while the date of birth of the applicant is 1.5.1990. As the respondent no. 4 is elder than the applicant she has been selected as a Police Patil of village Vadgaon Ambe, Tq. Pachora. It is contention of the respondent no. 3 that the applicant raised objection and contended that the respondent no. 4 is not falling in non creamy layer category. It is his contention that the competent authority i.e. the Tahsildar, Pachora has issued non creamy layer certificate in favour of the respondent no. 4 and therefore the respondents found no substance in the objection of the applicant. The appointment of respondent no. 4 has been made in view of the provisions of rules and law. He, therefore, prayed to dismiss the present O.A.

6. I have heard the arguments advanced by Shri S.R. Dheple, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents. I have also gone through the documents placed on record.

7. Admittedly the res. no. 3 issued the proclamation to fill up the post of Police Patil of different villages in sub division Pachora,

Dist. Jalgaon including village Vadgaon Ambe, Tq. Pachora. The post of Police Patil of village Vadgaon Ambe was reserved for General Women category. Admittedly the applicant, respondent no. 4 and other candidates filed their online applications and participated in the recruitment process. Admittedly they appeared for written examination. In the written examination the applicant secured 48 marks out of 80. Admittedly the respondent no. 3 called three candidates other than the applicant, who secured highest marks in the written examination and asked them to produce the documents for verification before oral interview. Admittedly the applicant approached this Tribunal by filing O.A. no. 12/2016 alleging that she has not been called for oral interview though she secured highest marks than other candidates in the written examination. This Tribunal issued notice to the respondents in that O.A. and directed the respondent no. 2 to allow the applicant to participate in the oral interview by the order dtd. 8.1.2016. In view of the said order the respondent no. 3 called upon the applicant to produce the non creamy layer certificate on or before 15.1.2016 by the communication dtd. 11.1.2016. Accordingly the applicant produced the non creamy layer certificate on 14.1.2016. There is no dispute about the fact that on 20.5.2017 the respondent no. 3 disqualified the applicant from the recruitment process for the post of Police Patil of village

Vadgaon Ambe, tq. Pachora, Dist. Jalgaon on the ground that she had mentioned answer 'No' against the column no. 14, in her online application. But thereafter the respondent no. 3 reviewed his earlier order and passed another order on 8.6.2017 and held the applicant eligible to participate in the next process of recruitment i.e. oral interview for the post of Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon from general women category. Accordingly oral interview of the applicant and other three candidates has been conducted. The result of the recruitment process had been kept in sealed envelope. Thereafter on 20.6.2017 the respondent no. 3 declared the result of the selection process and selected the respondent no. 4 as a Police Patil of village Vadgaon Ambe, Tq. Pachora on the basis of age criteria as they both i.e. the applicant and respondent no. 4 secured equal marks in aggregate.

8. Learned Advocate for the applicant has submitted that in the written examination the applicant secured highest marks i.e. 48 marks out of 80 amongst the candidates who appeared for written examination, but he has not been called for oral interview. The ratio of 1:3 is fixed for calling the candidates for oral interview. Accordingly the respondent no. 3 ought to have called three candidates including the applicant who secured highest marks in

the written examination. The applicant has secured highest marks i.e. 48 marks out of 80 and other candidates viz. Smt. Jyoti Pundalik Patil has secured 47 marks, Smt. Rekha Divakar Patil has secured 43 marks and Smt. Rupali Baburao Ursal has secured 44 marks in the written examination. As per the rules the respondent no. 3 ought to have called three candidates for oral interview, but the respondent no. 3 illegally called the respondent no. 4 Smt. Rekha Divakar Patil along with other candidates namely Smt. Rupali Baburao Ursal and Jyoti Pundalik Patil for oral interview. The respondent no. 3 had not called the applicant for oral interview and therefore the applicant filed O.A. no. 12/2016 before this Tribunal. In view of the interim directions given by the Tribunal in the said O.A. vide order dtd. 8.1.2016 the applicant was permitted to participate in the oral interview. He has submitted that the respondent no. 3 intentionally and deliberately gave less marks to the applicant in the oral interview and allotted more marks to the respondent no. 4 and therefore both the candidates i.e. the applicant and the respondent no. 4 secured equal marks i.e. 58 marks in aggregate. He has submitted that the respondent no. 3 applied wrong criteria while making the selection of the candidate for the post of Police Patil and on the basis of age criteria he selected the respondent no. 4 and accordingly appointed her as a Police Patil. The entire recruitment

process is against the provisions of rules and law and therefore it requires to be quashed by allowing the O.A.

9. He has submitted that the respondent no. 4 has also mentioned wrong information against column no. 14 in the online application, but her application has not been considered properly and the respondents allowed her to participate in the oral interview. The respondent no. 4 is not falling under non creamy layer. She has more income than the income prescribed for getting the non creamy layer certificate. The applicant raised objection in that regard, but the respondent no. 3 has not considered her objection and therefore the impugned order is illegal. Therefore he prayed to quash the said order by allowing the O.A.

10. Learned Presenting Officer has submitted that the respondent no. 3 has conducted the recruitment process as per the rules. All the applicants have filled in their applications online. While filling in the online application the applicant has supplied information against column nos. 13 & 14 and stated that she is not claiming reservation against women category. She has also mentioned that she does not possess non creamy layer certificate. The respondent no. 4 has also mentioned that she does not possess non creamy layer certificate against the column

no. 14 in her online application. He has argued that after written examination the agency which has been appointed for conducting the online process informed the respondent no. 3 that the applicant was ineligible and therefore she was not called for oral interview. But thereafter in view of the interim directions issued by the Tribunal in O.A. no. 12/2016 vide order dtd. 8.1.2016 she was permitted to participate in the further recruitment process. She was called upon to produce the non creamy layer certificate on or before 15.1.2016. Accordingly the applicant produced the non creamy layer certificate on 14.1.2016. He has argued that the respondent no. 4 has produced non creamy layer certificate on 11.1.2016, the date on which the candidates were called to produce the documents for verification. Thereafter oral interview for the post of Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon has been conducted on 17.3.2016. But the result has been kept in sealed envelope because of pendency of O.A. no. 12/2016. Thereafter result has been declared on 20.6.2017 and as per the decision the applicant and respondent no. 4 secured 58 marks each in aggregate. Both the applicant and the respondent no. 4 secured equal marks and therefore the provisions of clause 21 of the advertisement has been applied. In view of the provisions of sub clause 4 of clause 21 of the advertisement the ages of both the candidates i.e. the applicant and the respondent

no. 4 have been considered and as the respondent no. 4 is elder than the applicant she was declared as selected candidate. There is no illegality in the impugned order. Therefore he supported the impugned order and prayed to reject the O.A.

11. On perusal of documents, it reveals that the applicant and the respondent no. 4 applied for the post of Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon. They appeared for the written examination held on 13.12.2015. In the written examination the applicant secured 48 marks and other candidates namely Smt. Jyoti Pundalik Patil has secured 47 marks, Smt. Rekha Divakar Patil has secured 43 marks and Smt. Rupali Baburao Ursal has secured 44 marks. The applicant has not filled in column no. 14 properly and therefore she was declared ineligible and has not been called for verification of documents and oral interview. Only three candidates i.e. the respondent no. 4, Smt. Rupali Baburao Ursal and Smt. Jyoti Pundalik Patil were called for oral interview and they were asked to produce the documents for verification on 11.1.2016. The applicant has challenged the said decision of respondent no. 3 before this Tribunal by filing O.A. no. 12/2016. While issuing notices on 8.1.2016 this Tribunal has directed the respondent no. 3 to allow the applicant to participate in the oral interview and conduct her

oral interview in accordance with law. Accordingly the respondent no. 3 issued communication to the applicant on 11.1.2016 and called upon her to produce necessary documents for verification on or before 15.1.2016. The respondent no. 4 produced non creamy layer certificate on 11.1.2016. The applicant thereafter produced the non creamy layer certificate before the respondent no. 3 on 14.1.2016. Meanwhile the respondent no. 3 passed the order dtd. 20.5.2017 and declared the applicant as disqualified from the recruitment process. But thereafter the respondent no. 3 passed another order on 8.6.2016 and cancelled his earlier order dtd. 20.5.2016 and held that the applicant is eligible to participate in the further recruitment process and she was allowed to appear for further process for the post of Police Patil of village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon from general women category. Respondent no. 3 conducted oral interview of the candidates i.e. the applicant, respondent no. 4 and other two candidates on 17.3.2016. But the result of the process has been kept in a sealed envelope. On 20.6.2017 the respondent no. 3 published mark list and final selection list for the post of Police patil of village Vadgaon Ambe, Tq. Pachora. The applicant secured 48 marks in the written examination and 10 marks in oral interview and thus she secured 58 marks in aggregate, while the respondent no. 4 also secured 43 marks in the written examination and 15 marks in

oral interview and thus secured 58 marks in aggregate. Other two candidates namely Smt. Rupali Baburao Ursal secured 44 marks in the written examination and 13 marks in oral interview and thus secured 57 marks in aggregate, whereas Smt. Jyoti Pundalik Patil secured 47 marks in the written examination and 10 marks in oral interview and thus secured 57 marks in aggregate. The applicant and the respondent no. 4 secured 58 marks each in aggregate. As they secured same marks, the respondent no. 3 applied the criteria mentioned in clause 21 of the advertisement. The date of birth of the respondent no. 4 is 19.12.1979, while the date of birth of the applicant is 1.5.1990. The respondent no. 4 is elder in age than the applicant. Therefore by applying the criteria mentioned in sub clause (4) of clause 21 of the advertisement the recruiting committee declared the respondent no. 4 as a selected candidate. The said selection has been made by the respondent no. 3 in view of the provisions of the rules and the advertisement and therefore I find no illegality in it.

12. So far as objection raised by the applicant regarding incorrect information given by the respondent no. 4 in column no. 14 in the online application, it would be material to note here that both the candidates i.e. the applicant and the respondent no. 4 had submitted incorrect information against the column no. 14.

The respondent no. 3 considered the said fact and permitted all those applicants who have submitted wrong information in the online application to participate in the recruitment process and he has made report in that regard to the Additional Chief Secretary, Home Department by the communication dtd. 2.1.2016 and also sought directions from him. The mistake committed by both the candidates i.e. the applicant and the respondent no. 4 has been ignored by the respondent no. 3 and permitted them to participate in the selection process. Therefore it cannot be said that because of the decision of respondent no. 3 in that regard injustice has been caused to the applicant. On the contrary, on perusal of the application of the applicant it reveals that the applicant has given wrong information against column no. 13 also, but it has been ignored by the respondent no. 3 while allowing her to participate in the process. Therefore, it cannot be said to be illegality in the recruitment process conducted by the respondent no. 3. No favours have been shown to the respondent no. 4 by the respondent no. 3. On the contrary, all the candidates who committed such mistake has been given benefit & opportunity to participate in the recruitment process. Therefore it cannot be said that the impugned order issued by the respondent no. 3 is mala-fide and arbitrary. I do not find substance in the arguments advanced by the learned Advocate for the applicant in that regard.

The respondent no. 3 has conducted the recruitment process as per the rules and the provisions of the G.Rs. issued by the Government from time to time. There is no illegality in the impugned selection of the respondent no. 4 on the post of Police Patil of the village Vadgaon Ambe, Tq. Pachora, Dist. Jalgaon. Therefore, no interference is called for in it. There is no merit in the O.A. Consequently the O.A. deserves to be dismissed.

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

(B.P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 3rd December, 2019