

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 575 OF 2014

DIST. : LATUR

Deepak s/o Bapatrao Patil,)
 Age: 43 years, Occu. Govt. Service,)
 R/o New Renapur Naka,)
 Sai Road, Omshanti Nagar,)
 Nale Nivas, Arvi, Tq. and Dist. Latur.).. **APPLICANT**

V E R S U S

1. The State of Maharashtra,)
 (Copy to be served on C.P.O.)
 M.A.T., At Aurangabad).)

2. The Additional Director General,)
 Of Police/Inspector General of)
 Prison, Central Building, Pune.).. **RESPONDENTS.**

 APPEARANCE :- Shri A.D. Gadekar, learned Advocate for
 the applicant.
 : Shri M.P. Gude, learned Presenting
 Officer for the respondent authorities.

CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar,
Member (A)

RESERVED ON : **02.01.2024**

PRONOUNCED ON : **29-01-2024**

ORDER

[Per :- Shri Vinay Kargaonkar, Member (A)]

1. Heard Shri A.D. Gadekar, learned counsel for the applicant and Shri M.P. Gude, learned counsel for the respondent authorities.

Brief Facts of the case :-

2. Applicant joined the Government service in Jail Department as a Jail Guard. The respondent no. 2 issued the Circular on 6.8.2013 calling applications for the post of Jail Officer Grade-II (Non-Gazetted) from the eligible candidates, who are in service in the Jail Department. The applicant being eligible and qualified applied for the post of Jail Officer on 20.8.2013. The applicant made a representation to the respondent no. 2 on 09.11.2013 stating that after service of more than 10 years in Jail Department, the candidate like the applicant gets a chance to get the post of Jail Officer and such chance comes after 10 to 15 years' service and by that time concerned employee reaches the age of 40 to 45 years. The applicant further stated that the candidate should not be held non-eligible on the basis of the marks obtained in the physical test. All the candidates should be given chance to appear for

the written examination and after taking into consideration the marks obtained in the physical test, written examination and the oral interview the select list be prepared.

3. Although the applicant made his representation well in advance, but after completion of the selection process his representation was vaguely replied without touching to the points raised by the applicant in his representation. The physical test was of 80 marks and the candidates securing 36 marks were allowed to appear for the written test and this procedure is against the guidelines of the Maharashtra Public Service Commission (for short the M.P.S.C.) so far as the Officer post is concerned. The applicant was held ineligible in the physical test and, therefore, he was not given chance for the written examination.

Submissions by the applicant :-

4. The applicant submitted that the Jail Guards, who have worked for more than 10 years in the Jail Department, get a chance for the post of Jail Officer Grade-II and by that time they reach the age of 40 to 45 years. Considering the age of 40 to 45 years for in-service candidates, their physical test be conducted as per the advice of the Medical Expert, but no such

criteria was applied and the physical test of the in-service candidates were taken as a new recruit entering into the service, which is unjust and unfair and possibility of mischief could not be ruled out during the physical test. The applicant further stated in his representation that the candidate should not be held ineligible on the basis of the marks obtained in the physical test. All the candidates should be given chance to appear for the written examination and after taking into consideration the marks obtained in physical test, written test and oral interview the select list should be prepared. Applicant has submitted a representation on 9.11.2013 containing the above mentioned request to the concerned authorities.

5. During physical test the applicant was given only one chance for long jump and without giving second chance for long jump to the applicant he was declared as not up to the mark. The Superintendent, Latur District Prison by communication/letter dated 16.12.2013 had replied to the representation made by the applicant. The points raised by the applicant in his representation have been vaguely replied by respondent No. 2. Although the applicant had made representation well in advance, but after completion of the selection process his representation is vaguely replied without

touching to the points raised by the applicant in his representation. The applicant submitted that the physical test was of 80 marks as under:-

- (a) 800 Mtrs running, time 2.30 minutes, marks 20.
- (b) 10 full-ups, 2 marks each – 20 marks.
- (c) Long jump – 20 marks.
- d) Goal throw – 20 marks.

6. In the physical test if the candidate secured 36 marks then he is allowed to appear for written examination and this procedure is totally against the guidelines of the MPSC. As far as the officer post is concerned, the first preference should have given to the preliminary written examination and thereafter main examination. The candidates securing highest marks in written test should have been selected for physical test as is done in case of Police Sub Inspector (for short PSI). The applicant submitted that as per the Sports Rules for long jump 03 chances are given and out of 03 chances the best chance is being taken into consideration for giving marks but the applicant was given only one chance.

7. Applicant submitted that by G.R. dated 12.09.2003 the post of Jail Officer, Grade-II and the post of PSI are given equal status. When the status and pay scale of PSI is given to

the post of Jail Officer, Grade-II then selection procedure should have been one and the same. But for the post of Jail Officer, Grade-II a reverse procedure is adopted by respondent No. 2 which is unjust and unfair. The selection criteria for the post of Jail Officer, Grade-II must be as per the guidelines of the MPSC applicable for selection of PSI.

Submissions by respondents

8. Respondent No. 2 submitted that the appointments to the post of Jailor Grade-II are made as per the provisions of Rule 2-(a) of Maharashtra Prison Manual, 1979 and G.R. dated 20.07.2002. Applicant failed to clear long jump and was declared not up to the marks. Respondent No. 2 also submitted that the argument of the applicant in respect of the inability of the candidate of 40 years age in not being physically fit for ground test is baseless. Respondent also negated the contention of the applicant that the selection procedure should be like the selection of PSI because the Police Department and the Prison Department are different departments and the procedure adopted for selection of Jail Officer, Grade-II is as per the Jail Manual. Respondent further submitted that the process for Prison Department recruitment 2013 for the post of

Jailor Grade-II has been conducted in accordance with rules and conditions and the candidates who fulfill the rules and conditions have been selected by the selection committee for appointment to the post of Jailor Grade-II. Only those candidates who were recommended by the selection committee were appointed to the post of Jailor Grade-II. Respondent also submitted that the applicant received ZERO marks in long jump. Applicant has received ZERO marks in 800 mtrs running as could not complete 800 mtrs running. Applicant has failed in two ground tests and overall marks obtained by the applicant in the physical test are less than the selected candidates. Respondent No. 2 also submitted on record the mark-chart secured by the applicant.

Conclusions:

9. Applicant's main grievance is that he was disqualified for the post of Jail Officer Grade II (Non-Gazetted) on the basis of physical test and he was not given opportunity to appear for written examination. Applicant argued that the selection process for Jail Officer Grade II was anticlockwise i.e. first physical test was taken and then written test was taken. Applicant felt that first written test should have been taken,

then physical test and interview and based on the marks obtained in all these three tests candidates should have been selected. Applicant also submitted that selection criterion for the post of Jail Officer Grade-II must be similar to the selection criterion adopted by MPSC for selection of the Police Sub-Inspector which is equivalent in pay scale of Jail Officer Grade-II.

10. The rational of equating selection criterion for Jail Officer Grade -II with selection criterion for Police Sub Inspector is not acceptable as these are two different services under two different departments. Recruitment rules for Police Sub Inspector are different and they cannot be applied for Jail Officer Grade-II.

11. In the Rule 2-(a) of Maharashtra Prison Manual, 1979, the terms and conditions for appointment of Jailor Grade II by promotion have been mentioned which are reproduced below:

“Jailor Group-II -

Appointment to the post shall be made either -

(A) by promotion of suitable departmental candidates who:-

(i) have passed the S.S.C. Examination with English as one of the optional subjects or any other equivalent examination.

(ii) have served in the Prison Department for at least 10 years.

(iii) possess minimum height of 162 Cm. and minimum chest measurement of 76-82 Cm and

(B) -- -- -- -- --"

12. Abovementioned Prison Rules do not specify how to conduct the tests and in what sequence tests have to be conducted for appointment of Jailor Grade II by promotion. At the relevant time Rule 2-(a) of Maharashtra Prison Manual, 1979 and G.R. dated 20.07.2002 are holding the ground. Selection procedure followed by the concerned authorities is not contradictory, inconsistent or violative of the procedure mentioned in the Rule 2-(a) of Maharashtra Prison Manual, 1979 and G.R. dated 20.07.2002.

13. A combination of physical and written tests allows a more comprehensive assessment of candidates' abilities. While the written test evaluates knowledge and theoretical understanding, the physical test assesses practical skills and physical fitness. Process followed in this case is transparent and fair and complies with prison manual, G.R, and laws regarding equal opportunities and non-discrimination. Therefore we do not see any merit in the original application filed by the applicant. Hence, we pass the following order:-

ORDER

The Original application is dismissed. No order as to costs.

MEMBER (A)**VICE CHAIRMAN****Place : Aurangabad****Date : 29-01-2024**

ARJ O.A. NO. 575 OF 2024 (SELECTION)