

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

**ORIGINAL APPLICATION NO. 876 OF 2018**

DIST. : JALGAON

Bhaskar s/o Madhukar Koli, )  
Age. 54 years, Occu. : Nil, )  
R/o Village Vaijapur, Tq. Chopada, )  
Dist. Jalgaon. ) -- **APPLICANT**

**VERSUS**

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

-----  
APPEARANCE :- Shri S.B. Jadhav, learned Advocate for the  
applicant.  
: Smt. Deepali S. Deshpande, learned  
Presenting Officer for the respondents.

-----  
**CORAM : B.P. PATIL, VICE CHAIRMAN**

**RESERVED ON : 17.7.2019**

**PRONOUNCED ON : 22.7.2019**  
-----

**JUDGMENT**

1. The applicant has challenged the order dtd. 27.4.2018 issued by the respondent by which he has been terminated from the post of Police Patil of village Vaijapur, Tq. Chopda, Dist. Jalgaon, by filing the present Original Application.

2. Applicant is resident of village Vaijapur, Tq. Chopda, Dist. Jalgaon. He was appointed as Police Patil on 15.3.1996.

Thereafter his appointment was continued from 15.3.2011 to 28.2.2011. Accordingly, the applicant was working as Police Patil. On 27.4.2018 the respondent issued the impugned order and terminated the services of the applicant as Police Patil on the basis of notification dated 23.11.2016. It is contention of the applicant that on 9.6.2014 the Hon'ble Governor of Maharashtra issued the notification and ordered that the posts in the scheduled areas shall be filled in by the local scheduled tribe candidates only. The said Notification did not include the post of Police Patil, but by issuing another notification dated 9.8.2016 the post of Cook, Laboratory Attendant and Kamathi were added. On 23.11.2016 another Notification was issued and the post of Police Patil was added in the earlier Notification dated 9.6.2014. Said amendment made in the initial Notification is effective w.e.f. 23.11.2016. Prior to issuance of Notification dated 23.11.2016 his continuation order dtd. 12.3.2016 has been issued, but the respondent had not considered the said aspect and issued termination order applying the Notification dated 23.11.2016 with retrospective effect and, therefore, the impugned order issued by the respondent is illegal.

3. It is his contention that the Commissioner, Nagpur sought clarification from the Government of Maharashtra in that regard

in respect of similarly situated persons and the Government of Maharashtra through Under Secretary by letter dated 19.4.2018 informed him that the appointments, which were made before the Notification dated 23.11.2016 shall be continued till the completion of tenure of respective Police Patils. It is his contention that after issuing termination order, the respondent issued advertisement dated 4.5.2018 calling applications for the post of Police Patil of village Vaijapur from the eligible candidates from S.T. category, but no eligible candidates were found. Thereafter the respondent has issued re-advertisement dated 28.8.2018, but to this advertisement also the respondent could not found a eligible candidate from S.T. category and therefore the post of Police Patil of village Vaijapur is kept vacant. Therefore, the applicant approached this Tribunal by filing the present Original Application and prayed to quash the impugned order.

4. Respondent resisted the contention of the applicant by filing his affidavit in reply. He has admitted the fact that the applicant was initially appointed on the post of Police Patil and thereafter his appointment was continued till 28.2.2021. It is his contention that initially the appointment of the applicant was made in the year 1996. It was extended for further period of 5 years and renewed up to 14.3.2011. Thereafter, actually further renewal

period for five years should be from 15.3.2011 to 14.3.2016, but due to mistake of office it was wrongly extended up to the period of retirement of the applicant i.e. for ten years i.e. from 15.3.2011 to 28.2.2021.

5. It is his contention that village Vaijapur is covered under Scheduled area vide Notification dated 23.11.2016 and as per the said Notification the appointments in the scheduled areas are to be made from the Scheduled Tribe category candidates only. It is his contention that by the Notification dated 9.6.2014 Hon'ble Governor of Maharashtra has ordered that the posts in the scheduled areas be filled in by the local Scheduled Tribe candidates only and the post of Police Patil has been added in the Appendix to the said Notification vide Notification dated 23.11.2016. It is his contention that considering the said Notification he has terminated the services of the applicant by the impugned order and therefore the post of Police Patil of village Vaijapur became vacant. It is his contention that clarification made by the Government of Maharashtra by letter dated 19.4.2018 was not received to him when he issued the impugned order and therefore no question of taking into consideration the said clarification, arises. It is his contention that as the post of Police Patil of village Vaijapur became vacant because of

termination of services of the applicant, he had taken steps for filling in the said post by issuing advertisement dated 4.5.2018 and further advertisement dated 28.11.2018, but no eligible candidate from the S.T. category applied for the said post and therefore the said post is kept vacant. It is his contention that he has issued the order allowing the applicant to work as a Police Patil in view of interim order dated 27.11.2018 passed by the Tribunal. It is his contention that there is no illegality in the impugned order and therefore he prayed to reject the Original Application.

6. I have heard the arguments advanced by Shri S.B. Jadhav, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents. I have also gone through the documents placed on record.

7. Learned Advocate for the applicant has submitted that the applicant was initially appointed as a Police Patil on 15.3.1996 and thereafter his appointment was continued from time to time and lastly from 15.3.2011 to 28.2.2021. He has submitted that the applicant was discharging his duties honestly as a Police Patil. He has argued that, the Hon'ble Governor of Maharashtra issued the notification dated 9.6.2014 and ordered that the post in the scheduled area shall be filled in by the local scheduled tribe

candidates only. Initially the post of Police Patil was not included therein. By issuing another notification dated 9.8.2016 the post of Cook, Laboratory Attendant and Kamathi were added in the appendix to the Notification dated 9.6.2014. He has further argued that, on 23.11.2016 one more Notification was issued and the post of Police Patil was added in the appendix to the earlier Notification dated 9.6.2014. The said amendment made in the initial Notification is effective w.e.f. 23.11.2016. On the basis of Notification dated 23.11.2016, the respondent issued the impugned order and terminated the services of the applicant. He has argued that the Notification dated 23.11.2016 does not provide that it is applicable to the earlier appointments made on the post of Police Patil before the date of its issuance. The Notification was not applicable with retrospective effect, but the respondent has misinterpreted the said Notification and issued the impugned order illegally. He has argued that the Commissioner, Nagpur sought guidance from the Government of Maharashtra in that regard in the case of similarly situated persons and the Government of Maharashtra through Under Secretary by letter dated 19.4.2018 clarified that the appointments, which were made before the Notification dated 23.11.2016 shall be continued till completion of tenure of respective Police Patils. He has submitted that the respondent

had not considered the said aspect and issued the impugned termination order illegally and therefore he prayed to allow the Original Application.

8. Learned Presenting Officer has submitted that by the Notification dated 23.11.2016 the post of Police Patil is added in Appendix to the Notification dated 9.6.2014. The said Notification provides that all the posts, which are to be filled in by direct recruitment for the scheduled areas of the District, which have scheduled areas, in the State shall be filled from local Scheduled Tribe candidates only and therefore the respondent has terminated the services of the applicant as post of Police Patil is added in the appendix to the notification dated 9.6.2014 and is declared as post for scheduled area. He has submitted that there is no illegality in the impugned order and therefore he supported the impugned order and prayed to reject the Original Application.

9. On perusal of record it reveals that the applicant was initially appointed as a Police Patil in the year 1996 w.e.f. 15.3.1996. The document at page 13 of the O.A. shows that his appointment was continued from 15.3.2011 to 28.2.2021. Accordingly he was discharging his duties as a Police Patil and the said fact is evident from document at page 13 of the O.A. No doubt, the Hon'ble Governor of Maharashtra issued Notification

dated 9.6.2014 and ordered that the posts in the scheduled areas shall be filled in by local Scheduled Tribe candidates only and in the appendix list of 10 posts have been mentioned. Initially the post of Police Patil was not included in the said list. On 9.8.2016 one more Notification was issued by the Hon'ble Governor of Maharashtra and three posts namely Cook, Laboratory Attendant and Kamathi were included in the list. On 23.11.2016 again another Notification was issued and the post of Police Patil is included in the appendix to the Notification dated 9.6.2014. On going through the Notification dated 23.11.2016 it reveals that the said Notification is regarding filling in the post in the scheduled area. It means it was applicable to the vacant posts only. It does not make any provision regarding the posts, which were already filled in. The respondent has not treated the said Notification with proper perspective. He has misinterpreted the Notification and issued the impugned termination order terminating the services of the applicant on the ground that Notification dated 23.11.2016 is applicable with retrospective effect. Therefore, the impugned order is illegal and in violation of Notification.

10. It is also material to note here that similar issue was raised before the Commissioner, Nagpur Division and therefore he made reference to the Government and sought clarification in that



regard. To the said reference, the Under Secretary, Government of Maharashtra replied by letter dated 19.4.2018 and clarified that Notification dated 23.11.2016 is not applicable to the posts, which have already been filled in and the persons working on the post of Police Patil before issuance of Notification cannot be removed and the said Notification is applicable for filling the posts, which become vacant due to retirement, promotion, death, transfer or for any reason, but the respondent has not considered the said aspect and has wrongly issued the impugned order terminating the services of the applicant. Therefore in my opinion the impugned order is illegal and requires to be quashed by allowing the Original Application.

11. In view of discussion in foregoing paras the Original Application deserves to be allowed. Accordingly the Original Application is allowed. The impugned order dated 27.4.2018 terminating the services of the applicant as a Police Patil of village Vaijapur, Tq. Chopada, Dist. Jalgaon is hereby quashed. The respondent is directed to issue appropriate order reinstating the applicant in service immediately. There shall be no order as to costs.

**(B.P. PATIL)**  
**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 22.7.2019**

ARJ-O.A.NO.876-2018 S.B. (POLICE PATIL)