

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
CONTEMPT APPLICATION NO. 116 OF 2023
WITH
CONTEMPT APPLICATION NO 02 OF 2024
IN
ORIGINAL APPLICATION NO 1226 OF 2022

DISTRICT : MUMBAI

Shri Ramesh Narayan Khune & Ors)
Shri Laxman B. Rathod & Ors)...**Applicants**

Versus

1. Smt Sujata Saunik,)
Addl. Chief Secretary,)
Home Department,)
Mantralaya, Mumbai.)
2. Mr Rajnish Sheth,)
Director General of Police,)
Shahid Bhagat Singh Road,)
Colaba, Mumbai 400 005.)
3. Mr. Sanjeev Kumar Singhal,)
Addl. Director General of Police,)
Shahid Bhagat Singh Road,)
Colaba, Mumbai 400 005.)...**Respondents**

Shri S.B Chanda, learned advocate for the Applicants in C.A
116/2023.

Shri U.V Bhosle, learned counsel for the applicants in C.A
02/2024.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

DATE : **24.01.2024**

ORDER

1. Learned counsel for the applicants submits that they are A.P.I of 102 batch seeking promotion to the post of Police Inspector.

2. Learned counsel Shri S.B Chandan submitted that this Tribunal by order dated 16.1.2024 in M.A 17/2024 in O.A 1268/2022 directed the Respondents to issue promotion orders of the applicants of 103 batch. He submits that on the same lines Batch No. 102 are also to be promoted. The relevant portion of the said order is reproduced below:-

“4. We made query to the learned C.P.O whether order dated 16.12.2022 passed in O.A No 1268/2022 is challenged before the Hon’ble High Court. She informed that as per instructions the order dated 16.12.2022 is not challenged before the Hon’ble High Court. We rely on paragraph 14 of the order dated 16.12.2022 passed in O.A No. 1268/2022 which is quoted below for reference:-

“14. The applicants are direct recruits and order of stay granted by this Tribunal in O.A 557/2022 & 676/2021 will not come in the way of promotion of the present applicants to the post of Police Inspector.”

3. Learned counsel for the applicants Mr Chandan is directed to file separate Misc Application, if necessary.

4. Learned counsel Shri Bhosle for the applicants in C.A 02/2024, submitted that the applicants are from 102 batch. Learned counsel submitted that by order dated 8.11.2023, directions were given to promote the applicants from 102 batch. However, they are not promoted, though others are promoted on 29.12.2023. The Respondent No. 2, D.G.P has published the cadre list and names of the 15 applicants are not in the list. Hence, they are aggrieved as the order of this Tribunal has not been complied with. Learned counsel Shri Bhosle submitted that the reason for not including the names of these applicants is that they have taken benefit of reservation.

5. Learned counsel for the applicant referred to the order passed by this Tribunal dated 8.11.2023 in O.A 1226/2022. Learned counsel for the applicants Shri Bhosle submitted that names of 8 applicants are not found in the cadre list which was published in December, 2023, pursuant to the order of this Tribunal. The applicants have never availed of the benefits of reservation and yet the names of the 8 applicants are not considered for promotion to the post of Police Inspector. Learned counsel further submitted that the words mentioned in the impugned order that 46 or more after considering whether candidates have taken benefits of reservation are to be excluded while giving promotion to the candidates to the vacant 533 posts of Police Inspector, are misinterpreted by the Respondents. Learned counsel submitted that there is a separate list filed by the applicants in O.A 1226/2022 giving the 4th list of the candidates who have taken the benefits of reservation. The names of the present applicants are not in the said list and that is not taken into account by the Respondents and the said list is not countered by the Respondents at the relevant time.

6. Learned C.P.O objects on the point of maintainability of the Contempt Application as there is no specific time limit as mentioned in the original order and therefore, this prayer cannot be considered under the Contempt of Courts Act. The objection is sustainable. Learned C.P.O submits that this Tribunal has specifically mentioned that 46 or more after considering whether candidates have taken benefits of reservation.

7. The relevant paragraph of the decision of this Tribunal dated 8.11.2023 in O.A 1226/2022 is reproduced below:-

7. In view of the order dated 19.12.2022, in M.A 711/2022 in O.A 1226/2022, and especially para 12 of the said order, the Respondents can proceed to give promotions to the Applicants, Assistant Police Inspectors to the post of Police Inspectors who were infact considered and found fit in the D.P.C meeting held on 21.3.2023. Out of 258 candidates from 102 batch, excluding the candidates who are specifically numbered as 46 or more after considering whether candidates (A.P.I) have taken benefit of reservation. The said issue of reservation in promotion is still pending before the Hon'ble Supreme Court in the case of State of Maharashtra & Ors Vs. Vijay Ghogre & Ors and no stay is granted by the Hon'ble Supreme Court to the judgment & order of the Hon'ble High Court dated 4.8.2017 in W.P 2757/2015, State of Maharashtra & Ors Vijay Ghogre & Ors, hence the said order of the Hon'ble High Court holds the field as on today.

8. Considered submissions of both the learned counsel for the applicants. We cannot extend the scope of the original order in Contempt Application. We clarify that the Tribunal is not a Forum to go on fact findings in Contempt Application as to which candidate has taken the benefits of reservation, while taking decision in respect of availing of the benefits of reservation. It is upto the Respondents to examine the service record of each and every candidate and that cannot be done by the Tribunal. It is up to the Respondents who has arrived at the conclusion.

9. Thus, we find no substance in the Contempt Applications and hence both the Contempt Applications stand dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 24.01.2024
Dictation taken by : A.K. Nair.