

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**CONTEMPT APPLICATION NO.48/2023 IN  
ORIGINAL APPLICATION NO.1097/2022 with  
MISCELLANEOUS APPLICATION NO.80/2023  
For Intervention in  
ORIGINAL APPLICATION NO.79/2023**

**DISTRICT : AHMEDNAGAR**

**C.A.NO.48/2023 IN O.A.NO.1097/2022**

Kiran Suresh Tordmal )  
Age : 26, Occ : Nil )  
At Baradari, Post : Mehekari, )  
Tal - Nagar, )  
District : Ahmednagar 414 002 ) **... Applicant.**

**Versus**

1. Mr. Anand Limye )  
The State of Maharashtra, )  
Through Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032 )  
2. Mr. Shrikant Bhivare, )  
The Superintendent of Police, )  
Pune Railway, Old CIT Office )  
Compound, Near Shivaji Nagar )  
Sangam Bridge, Pune 411 005 )  
Daund, Tal Daund, )  
District- Pune 413 801 ) **...Respondents.**

**M.A.NO.80/2023 IN O.A.No.79/2023**

Kiran Suresh Tordmal )  
Age : 26, Occ : Nil )  
At Baradari, Post : Mehekari, )  
Tal - Nagar, )  
District : Ahmednagar 414 002 **)Applicant /Intervenor**

In

Mr. Raviraj Nanasaheb Saykar, )  
 Age : 25 years, Occ. Nil, )  
 R/at. Plot No.217, Ninashri Bldg, )  
 Behind Maruti Temple, Horizon CHS )  
 Sector No.26, Pradhikaran Nigdi, )  
 Pimpri, Chinchwad, Pune ) **...Applicant.**

**Versus**

1. The Superintendent of Police, )  
 (Railways), Pune )  
 Having office at Old CID Campus )  
 Shivaji Nagar, Pune 5 )
2. The State of Maharashtra, )  
 Through the Addl. Chief Secretary, )  
 Home Department, having office at )  
 Madam Cama Road, Mantralaya, )  
 Mumbai 400 032 ) **...Respondents.**

**WITH**

**O.A.NO.79/2023**

Mr. Raviraj Nanasaheb Saykar, )  
 Age : 25 years, Occ. Nil, )  
 R/at. Plot No.217, Ninashri Bldg, )  
 Behind Maruti Temple, Horizon CHS )  
 Sector No.26, Pradhikaran Nigdi, )  
 Pimpri, Chinchwad, Pune ) **...Applicant.**

**Versus**

1. The Superintendent of Police, )  
 (Railways), Pune )  
 Having office at Old CID Campus )  
 Shivaji Nagar, Pune 5 )
2. The State of Maharashtra, )  
 Through the Addl. Chief Secretary, )  
 Home Department, having office at )  
 Madam Cama Road, Mantralaya, )  
 Mumbai 400 032 )
3. The Director General of Police, )  
 Training & Special Unit )  
 M.S. Mumbai, having office at )  
 Old Council Hall, Colaba, Mumbai ) **...Respondents.**

Mr. S.S. Dere, learned Advocate for the Applicant in C.A.No.48/2023 in O.A.No.1097/2022 with M.A.No.80/2023.

Mr. Bhushan A. Bandiwadekar, learned Advocate for the Applicant in O.A.No.79/2023.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM** : **Justice Mridula Bhatkar (Chairperson)**  
**Ms. Medha Gadgil, Member (A)**

**DATE** : **23.06.2023**

**PER** : **Justice Mridula Bhatkar (Chairperson)**

### **J U D G M E N T**

1. All the Applications are taken together.
2. C.A. can be disposed of with following order as the issue involved is very short :

Both the Applicants i.e. Applicant in C.A.No.48/2023 in O.A.No.1097/2022, Mr. K.S. Tordmal and Applicant in O.A.No.79/2023, Mr. R.N. Saykar have appeared and cleared the written test as well as physical test for the post of Police Constable pursuant to the Advertisement dated 03.09.2019. We are addressing the Applicants by name to avoid confusion.

3. Applicant Mr. Tordmal was selected. Respondent published seniority list after the written test and physical test on 22.01.2022. The name of the Applicant Mr. Tordmal appeared at Serial No.5 from OBC category in the merit. However, his selection was cancelled on 03.10.2022 on the ground that Criminal Case was pending against him. On the same day i.e. on 03.10.2022 the name of the Applicant Mr. Saykar was added in the

select list which was in the wait list at Serial No.1. Applicant Mr. Tordmal approached this Tribunal by filing O.A.No.1097/2022 challenging the decision of the Committee of deleting his name from the Select List. The Division Bench of the Tribunal heard the said matter and passed order in favour of the Applicant Mr. Saykar on 11.11.2022. The Division Bench directed that the Applicant is to be selected and appointed. However, at that time we were informed that all the posts of Constables in Pune Division were filled up and therefore we quoted the ratio laid down by the Hon'ble Supreme Court in the case of **Gaurav Pradhan and Ors. Versus The State Of Rajasthan And Ors. on 18 August, 2017, Civil Appeal No.8351/2017 (Arising Out of SLP (C) NO. 30603 OF 2014**, wherein it is held that if at all there is any error or illegal decision by the Appointing Authority then that can be rectified by creating supernumerary post. In the normal circumstances, if at all person is appointed erroneously, put in some period in the service, he cannot be removed from the service and his service can be protected by creating supernumerary post. In the present case, though the Applicant, Mr. Saykar has not put in few years in the service but he was appointed by order dated 03.10.2022 by the Respondents. As the appointment order was issued the right is created in favour of the Applicant Mr. Saykar. After receiving the order dated 11.11.2022 passed in O.A.No.1097/2022 the Applicant, Mr. Tordmal, Respondent cancelled the appointment of Applicant, Mr. Saykar by order dated 28.12.2022 i.e. 2 and ½ months after

he was given appointment. Applicant, Mr. Tordmal in O.A.No.1097/2022 was appointed on the next day i.e. on 29.12.2022. Therefore, the Applicant, Mr. Saykar has approached the Tribunal by filing the O.A.No.79/2023 seeking to challenge the cancellation of his appointment.

4. By order dated 06.04.2023 passed in O.A.No.79/2023 we have already granted interim relief to keep one post vacant in OBC category in the next Selection Process. Learned P.O. for the Respondents confirms that as on today one post in the next Selection Process is kept vacant. She also informs that the sanction is granted by the Finance Department and General Administration Department to create supernumerary post for this Selection. However, she informs that this supernumerary post is created for Applicant, Mr. Tordmal. We make it clear that the supernumerary post cannot be created for Applicant, Mr. Tordmal, but it is to be created for Applicant, Mr. Saykar who was earlier wait listed, then appointed and whose appointment was subsequently cancelled after two and half months.

5. Under such circumstance, we direct the Respondents to include the name of Mr. Saykar for supernumerary post and give him appointment. We further direct the Respondents to send both the Applicants Mr. Tordmal and Mr. Saykar for training at Jalna which is going to start on 01.07.2023. Respondent to take note that as one supernumerary post is

created for Applicant Mr. Saykar and appointment is given to him on supernumerary post. The post which was kept vacant on account of order dated 06.04.2023 passed in O.A.No.79/2023 can be released and can be taken into account. But this is to be done only after Applicant, Mr. Saykar is appointed on supernumerary post.

6. In view of above, C.A.No.48/2023 in O.A.No.1097/2022 and O.A.No.79/2023 stands disposed of.

7. M.A.No.80/2023 filed by learned Advocate Mr. Dere seeking intervention in O.A.No.79/2023 also stands disposed of as it has become infructuous.

SD/-

**(Medha Gadgil  
Member (A))**

SD/-

**(Mridula Bhatkar, J.)  
Chairperson**

prk