

**O.A. No.346/2018.**

**(D.B.)**

**Coram:Shri Shree Bhagwan,  
Member (A)**

**Dated : 7<sup>th</sup> May 2019.**

**C.A.180/2019.**

Heard Shri P.S. Wathore, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No.1.

2. The Ld. counsel for the applicant has placed on record the results published by M.P.S.C. as per directions given by the Hon'ble High Court of Judicature at Bombay in W.P. No. 1285/2018 on 28<sup>th</sup> June 2018. The Ld. counsel for the applicant has also placed on record the order of Principal Bench of this Tribunal, Mumbai in O.A.No.544/2018 delivered on 11.3.2019. In the High Court judgment, in para No.3, following observations have been made:-

“Having regard the Ld counsel for the petitioner as also the learned counsel for the MPSC and the Municipal Corporation, we are of view that the impugned order passed on May 3, 2018 needs to be modified and is modified to the extent by directing the MPSC to declare the result of the selection process conducted by it in respect of the posts of Assistant

Municipal Commissioner, However, on the basis of such declaration, the Municipal Corporation while issuing the appointment order shall make it specifically clear in the appointment order of the candidates who will be appointed, that their appointments will be subject to the outcome of these petitions and they will not be entitled to claim any right and equity on the basis of it. The MPSC is accordingly permitted to forward the names of the selected candidates to the Municipal Corporation.”

3. While publishing the results, the MPSC in point No.2 of Tip, they have mentioned certain reasons regarding SC category. However, on top it is clearly mentioned that the posts to be filled in from SC category. It is not understood why MPSC has not taken same stand as per the High Court's order and the order of Principal Bench of this Tribunal, Mumbai. While publishing the result of other category candidates, same action should have been taken in case of SC category also.

4. Issue notice on C.A. No.180/2019 to the respondent No.2 returnable after summer vacation clarifying this point.

5. Shri A.M. Khadatkar, the Ld. P.O. waives notice for R.1. Hamdst granted.

6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

10. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

12. Put up before the regular Division Bench.

13. It is observed that as per the judgment of the Hon'ble High Court and the judgment of this Tribunal, the MPSC may consider the case of SC category candidates as per merit, subject to final outcome of the O.A.

14. Steno copies be provided to both sides.

15. S.O. **after summer vacation.**

Member (A)

Dt. 7.5.2019

pdg

**O.A. No.343/2019.**

**(D.B.)**

**Coram:Shri Shree Bhagwan,**  
**Member (A)**

**Dated : 7<sup>th</sup> May 2019.**

**C.A. 181/2019.**

Heard Shri P.A. Kadu, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for respondent No.1.

2. For the reasons stated in application, C.A. to sue jointly is allowed subject to payment of necessary court fee to be deposited in the office of this Tribunal. C.A. stands disposed of.

**O.A. No.343/2018.**

1. The Ld. counsel for the applicant has invited my attention to the G.R. dated 8.6.1995 (Annexure A-2, para-E). As per this para, class-IV employees even if they are given higher pay, but remained in class-IV category, their retirement age would be 60 years. The impugned order dated

9.4.2019 (Annexure A-1, page 14) shows that Tartantri (Wireman) category employee has been asked to retire on 30.6.2019 after completion of age of 58 years. However, neither the learned counsel for the applicant or the Ld. P.O. has place any record which shows that Tartantri (Wireman) is Class-IV or Class-III. They are directed to file such record.

2. Meanwhile, Issue notice to the respondent Nos.2 to 5 returnable on **4<sup>th</sup> June 2019.**

3. Shri A.M. Khadatkhar, the Ld. P.O. waives notice for R.1. Hamdst granted.

4. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. S.O. **4<sup>th</sup> June 2019**.

10. If reply is not filed on 4<sup>th</sup> June 2019, case will be heard on merit.

11. Steno copies be provide to both sides.

Member (A)

Dt. 7.5.2019  
Pdg

**O.A. Nos. 341 & 342 of 2019**

**(D.B.)**

**Coram:Shri Shree Bhagwan,**  
**Member (A)**

**Dated : 7<sup>th</sup> May 2019.**

Heard Shri G.G. Bade, the Ld. counsel for the applicant and Shri M.I. Khan, the learned P.O. for respondent No.1.

2. The Ld. counsel for the applicant has pointed out the order dated 17.4.2019 by the Superintendent of Police, Nagpur (Rural) (A-1,P.9). In last para, it is mentioned that the Superintendent of Police has used Article 311 (2) (b) of the Constitution of India to issue this order.

3. Issue notice to the respondent Nos.2 to 4 returnable on **4<sup>th</sup> June 2019.**

3-A. Shri M.I. Khan, the Ld. P.O. waives notice for R.1. Hamdst granted.

4. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.



6. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

8. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

9. S.O. **4<sup>th</sup> June 2019**.

10. The respondents are also directed to place the record or file which has caused to utilize the powers under Article 311 (2) (b) of the Constitution of India. If the respondents desire, they may file record in chamber instead of open Court.

Member (A)

Dt. 7.5.2019  
Pdg

**O.A. No.223/2019.**

**(S.B.)**

**Coram:Shri Shree Bhagwan,  
Member (A)**

**Dated : 7<sup>th</sup> May 2019.**

**C.A.182/2019.**

Heard Shri G.G. Bade, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondents.

The Ld. counsel for the applicant has pointed out the order of this Tribunal, Nagpur Bench, Nagpur dated 28.3.2019. Para 10 in which time has been given upto May 2019. At this stage, C.A. 182/2019 is immature and the matter should be brought before this Tribunal after 31<sup>st</sup> May 2019.

If the respondents take decision as per the order dated 28.3.2019, the Ld. counsel for the applicant may not require to approach this Tribunal.

Steno copies be provided to both parties.

Member (A)

Dt. 7.5.2019  
Pdg

**O.A. No.344/2019.**

**(S.B.)**

**Coram:Shri Shree Bhagwan,  
Member (A)**

**Dated : 7<sup>th</sup> May 2019.**

Heard Mrs. S.S. Dashputre, the Ld. counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondent No. 1.

2. The Ld. counsel for the applicant has placed on record the order dated 26.4.2019 (A-3) by which show cause notice has been issued to the applicant for his misconduct. The Ld. counsel for the applicant submits that the show cause notice itself was received on 3.5.2019, i.e. almost seven days after issue of notice. However, the Ld. counsel for the applicant has not placed on record any documentary evidence to that effect. The Ld. counsel for the applicant apprehends that applicant will be dismissed from service. It is the Ld. counsel for the applicant's or applicant's presumption only at this stage. Though, the Ld. P.O. has vehemently opposed the maintainability of O.A. itself at this state, because no cause of action has arisen till now.

3. However, in the interest of justice and equity, issue notice to the respondents 2 to 4 returnable in **1<sup>st</sup> week of June 2019.**

4. Shri A.M. Khadatkar, the learned P.O. waives notice for the respondent No. 1. Hamdast granted.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

9. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

10. S.O. **1<sup>st</sup> week of June 2019.**

Member (A)

Dt. 7.5.2019  
Pdg