IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO 1071 OF 2013

DISTRICT : SANGLI

Shri Balasaheb Dhondiram Chavan,)
Occ : Nil, R/at : Koli Plot No. 5,)
Shinde Mala, Sangli.)...**Applicant**

Versus

1. The State of Maharashtra)
   State Excise, M.S, Mumbai.)
   Old Custom House, 2nd floor,)
   S.B Singh Road, Fort,)
   Mumbai 400 023.)
2. The Superintendent of State Excise,)
   29, Vasant Colony, Sangli.)
3. The Principal Secretary,)
   General Administration Department,)
   Mantralaya, Mumbai 400 032.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.
Ms Archana B.K, learned Presenting Officer for the Respondents.

CORAM : Shri Justice A.H Joshi (Chairman)
Shri P.N Dixit (Member)(A)

RESERVED ON : 21.06.2018

PRONOUNCED ON : 27.06.2018

PER : Shri Justice A.H Joshi (Chairman)

O R D E R

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Ms Archana B.K, learned Presenting Officer for the Respondents.

2. Applicant has approached this Tribunal with following prayer:-

> "10(a) By suitable order/directions, this Hon'ble Tribunal may be pleased to direct the Respondents to appoint the applicant as Driver cum Constable under Freedom Fighter Nominee Quota or as the case may be, forthwith with all other consequential service benefits."
>
> (Quoted from page 8 of O.A)

3. In support of his pleading, applicant has averred in para 7.4 as follows:-

> "7.4 That 4.3.1991 G.A.D was pleased to publish a circular for appointment in Government services in Class-III or Class-IV cadre to the nominee of Freedom Fighter. At para 5 it is categorically provided that sister's son can be appointed in Government services under Freedom Fighter quota, if he has been nominated by the same. Accordingly the applicant was nominated by his uncle Freedom Fighter and his name was in existence in the list maintained by the District Collector, Solapur as a nominee to be appointed in the Freedom Fighter quota. On 17.4.2012, applicant under RTI seeking information of GRs regarding appointment of Government employee under Freedom Fighter quota. On 15.3.2007 the information was submitted by the Respondent no. 2 mentioning that 5% quota is reserved for the nominee of Freedom Fighter to be appointed in Government service. Further in the circular of the month of February 2012 it is categorically mentioned that the G.R of 15.3.2007 is in force as far as reservation for 5% of nominee

of Freedom Fighter is concerned. On 8.3.1999, another G.R was issued by G.A.D providing for regularization of the irregular services. Hereto annexed and marked as 'Exhibit M-Colly', i.e true copy of the G.R dated 15.3.2007 and February, 2012."

(Quoted from pages 6 & 7 of O.A)

4. Applicant's claim has been opposed by the Respondents by answering para 7.4 which reads as follows:-

"17. With reference to para no. 7.4, I say that the contents stated herein are not inconsistence with the circular of the Government dated 15.3.2007. It is not correct to state that the said circular provides for 5% quota. In fact, the proposed 5% percentage is stated at no specific quota is provided for presence nominated by Freedom Fighter. I say that the G.A.D has issued new G.R on 27th June, 2008 bearing G.A.D decision no. Prnim/2007/Pr. Kra. 46/07/13-A (Copy enclosed at Exh. R-3) and given directions about the recruitment."

(Quoted from paged 55 & 56 of O.A)

5. Now in the light of rival submissions, this Tribunal has to see as to whether there exists any reservation and the quota for category of nominees of Freedom Fighters.

6. Applicant has placed reliance on Government Resolution dated 15.3.2007, as clarified by the Government through the Government decision dated 28.6.2008.

7. The reservation and apportionment of seats provided in the G.R dated 15.3.2007 reads as follow:-

"१) अनुकंपा	(प्रमाण नाही) (२२ ऑगस्ट, २००५ पूर्वीचे प्रस्तावांना प्रमाण नाही) परंतु २२ ऑगस्ट २००५ नंतर प्राप्त झालेल्या प्रस्तावांना रिक्त पदांच्या ५ % विहीत मर्यादेत)
२) प्रकल्पग्रस्त	२ % (संवर्गाच्या)
३) भुकंपग्रस्त	३ % (संवर्गाच्या)

४) स्वातंत्र्यसैनिक नामनिर्देशित व्यक्ती	प्रमाण निश्चित नाही. (प्रस्तावित ५ %)
५) सन १९९१ च्या कार्यमुक्त जनगणना कर्मचाऱ्यांमधून	(५० % रिक्त पदाच्या)
६) माजी सैनिक	(१५ % संवर्गाच्या)
७) क्रिडापटू	(५ % संवर्गाच्या)
८) महिला	(३० / संवर्गाच्या)

(Quoted from page 41 of O.A)

8. Item no. 4 in the foregoing quotation clearly reveals that no quota is decided (fixed) for nominees of Freedom Fighter. The total number of seats reserved in item nos 2, 3, 5, 6, 7 & 8 in foregoing quotation occupy entire 100%. Corollary thereof, it is that no reservation is provided for the nominees of Freedom Fighters.

9. Now this Tribunal has to see what is the direction contained in G.R dated 27.6.2008.

10. The scheme of G.R dated 27.6.2008 lays down the manner of giving preferences shall be given to various classes of candidates. This aspect is dealt with in para 6 of G.R dated 27.6.2008. Relevant portion thereof read as follows:-

"६. **<u>उमेदवारांना समान गुण मिळाल्यास</u>** :-

<u>परीक्षेचा निकाल तयार करताना परीक्षेत ज्या उमेदवारांना समान गुण असतील अशा उमेदवारांचा गुणवत्ताक्रम खालील निकषांवर क्रमवार लावला जाईल</u> :-

१) अर्ज सादर करण्याच्या अंतिम दिनांकास उच्च शैक्षणिक अर्हता धारण करणारे - उमेदवार, त्यानंतर

२) मागासवर्गीय उमेदवारांच्या बाबतीत प्रथम अनुसूचीत जमाती मधील नंतर अनुसुचित जाती, विशेष मागास प्रवर्ग, विमुक्त जाती (१४ व तत्सम जाती, भटक्या जमाती जानेवारी १९९० पूर्वीच्या २८ व तत्सम जमाती), भटक्या जमाती (धनगर व तत्सम) , इतर मागासवर्ग या क्रमाने, त्यानंतर

३) शारीरिक दृष्टया अपंग असलेले उमेदवार, त्यानंतर

४) माजी सैनिक असलेले उमेदवार, त्यानंतर

५) स्वातंत्र्य सैनिकाचे पाल्य असलेले उमेदवार, त्यानंतर

६) वय (वयाने ज्येष्ठ असलेल्या उमेदवारांचा क्रम वरती लागेल.) वरील प्रत्येक संवर्गामध्ये महिलांना अग्रक्रम देण्यात येईल.

(Quoted from page 64 of O.A).

11. The only conclusion which emerges from foregoing discussion is that on one hand the G.R relied above by the applicant dated 15.3.2007 does not lay down any quota for nominees Freedom Fighters and the G.R dated 27.6.2008 lays down the order of preferences. The nominees of Freedom Fighters are put in the order at serial no. 5 in said class who are to be preferred over other candidates.

12. The entire foundation of the Original Application is based on applicant's notion that reservation is provided.

13. The procedure laid down in earlier G.Rs to be adopted while making application etc. does not in any manner lay down direct recruitment for nominees of Freedom Fighters in supersession of regular channel or by any reservation.

14. There is no doubt that concession in the procedure provided by the Government is by way of preference and no reservation is provided.

15. In the result, Original Application has no merit and is dismissed.

Sd/-
(P.N Dixit)
Member (A)

Sd/-
(A.H. Joshi, J.)
Chairman

Place : Mumbai
Date : 27.06.2018
Dictation taken by : A.K. Nair.