

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 195 OF 2021

DISTRICT : SOLAPUR

Shri Dada Bharat Koulage,)
Occ – Service,)
R/at At Post Konheri, Tal-Mohol,)
Dist-Solapur.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Addl. Chief Secretary)
Home Department, Mantralaya)
Mumbai 400 032.)
2. The Addl. Director General of)
Police, C.I.D,)
M.S, Pune, Chavan Nagar,)
Pashan Road, Pune-1.)...**Respondents**

Smt Vaishali Jagdale, learned advocate for the Applicant.

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

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

DATE : **13.07.2023**

PER : **Mrs Medha Gadgil (Member) (A)**

J U D G M E N T

1. The applicant prays that this Hon'ble Tribunal be pleased to direct the Respondents to appoint the applicant to the post of Searcher/Police Sub- Inspector, (Fingerprint) against the open Part Time Graduate Employee quota with all consequential service benefits. He also prays that the impugned communications dated 26.4.2019 and 12.6.2019, issued by Respondent no. 2 and the impugned communication dated 25.10.201 issued by Respondent no. 1 be quashed and set aside.

2. The applicant pursuant to the advertisement dated October, 2017, applied for the post of Searcher/Police Sub- Inspector, (Fingerprint). Out of 47 posts, 22 posts were reserved for open category in which 8 posts were reserved for Open General (Male) and 2 posts were reserved for Open Part Time Graduate. The applicant applied under open category. Learned counsel for the applicant submitted that the written examination was conducted on 27.1.2018. The applicant appeared in the said examination and secured 112.63 marks. Thereafter the applicant appeared in the observation test and obtained 48 marks. The applicant secured total 160.53 marks and the final merit list was published on 6.6.2018. The last person from the open category got 164.30 marks. One Mr Abhijit Khade from the open category did not join. So the first person from the open category Mr Swapnil Walke was appointed on the same post. One Mr Shriram Kulkarni who was at Sr. No. 21 under the category of Open Part Time Graduate did not join. Learned counsel for the applicant has submitted that the applicant is seeking appointment against the Mr Shriram Kulkarni who is from Open Part Time Graduate category. Learned counsel for the applicant relied on the G.R dated 19.12.2013 issued by G.A.D which states that if an Open Part Time Graduate candidate

is not available, then the said post is to be filled in through the next meritorious candidate rather than carrying it forward to the next year. Learned counsel for the applicant has further submitted that the applicant filed representations dated 12.4.2019 before the Respondent no. 2, Addl. D.G, Pune and on 21.5.2019 to the Respondent no. 1, Addl. Chief Secretary, Home Department, that is within one year of the lapsing of the wait list. The request of the applicant was rejected on 26.4.2019. Learned counsel for the applicant however submitted that no reason was given for the rejection of the request of the applicant. The applicant applied under R.T.I to the Respondents and reply given is that the process is on-going and therefore, the information cannot be provided. Learned counsel for the applicant has submitted that for the first time the applicant was communicated on 25.10.2021 that his representation cannot be considered and the same is rejected on the ground that the select list has lapsed. Learned counsel for the applicant has submitted that the noting of the Respondents does not refer to the G.R dated 19.9.2013. Learned counsel for the applicant has submitted that the applicant has filed application within one year of the validity of the select list. Learned counsel submits that the Respondents should have considered their own relevant G.R dated 19.9.2013 and considered the case of the applicant for appointment.

3. Learned C.P.O states that the applicant has filed application within one year before the select list lapsed. However, by the time the Respondents have taken decision, the select list had lapsed.

4. We have perused the decision taken by Respondent no. 2 dated 26.4.2019 and also the decision taken by the Government on 25.10.2021. It appears that the Government has failed to consider the Government Resolution dated 19.9.2013 issued by G.A.D. It is

seen that the vacancy for the said post is still available as stated in the additional affidavit in reply dated 10th July, 2023 filed by Respondent no. 2. It is also seen from the noting that the applicant has made application on 21.5.2019 to the Principal Secretary, Home Department and on 8.5.2019 to the Additional Chief Secretary, G.A.D (Services) before the expiry of the select list.

5. In view of the above, we pass the following order.

- (a) The Original Application is allowed.
- (b) The Respondents are directed to appoint the applicant to the post of Searcher/Police Sub- Inspector, (Fingerprint) within one month, subject to fulfilling other eligibility conditions.
- (c) However, the applicant is not entitled to any back wages on the principle of 'No Work No Pay'.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 113.07.2023
Dictation taken by : A.K. Nair.