

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 294 OF 2020

DISTRICT : SOLAPUR

Mahesh Arjun Kute)
R/at : At and Post Temburni,)
Kasba Galli, Near Bobade Vakil,)
Opp. BSNL Office, Tal-Temburni,)
Dist-Solapur 413 211.)...**Applicant**

Versus

1. The Chief Secretary,)
Maharashtra Public Service)
Commission, Bank of India,)
3rd floor, M.G Marg,)
Hutatma Chowk, Fort,)
Mumbai 400 001.)
2. Director General of Police,)
Maharashtra Police Headquarters,)
Chhatrapati Shivaji Maharaj Marg)
Colaba, Mumbai 400 001.)...**Respondents**

Shri D.B Khaire, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula R. Bhatkar (Chairperson)**
Shri P.N Dixit (Vice-Chairman) (A)

DATE : **20.07.2021**

PER : **Shri P.N Dixit (Vice-Chairman) (A)**

J U D G M E N T

1. Heard Shri D.B Khaire, learned counsel for the applicant and Mrs Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. The applicant is aspiring to be appointed as Police Sub Inspector in pursuant to the advertisement dated 13.5.2018 for the Preliminary Examination and for the Main Examination on 13.7.2018. He applied for the post of P.S.I in the category of OBC-Sports quota. The applicant had valid Sports Certificate issued on 2.2.2018 and had enclosed the same along with his application form. The applicant cleared the Preliminary Examination as well as the Main Examination and was called for interview on 28.1.2020. However, the name of the applicant did not figure in the final select list of recommended candidates dated 17.3.2020.

3. In a separate development one Mr Anil N. Sawale, who had appeared for the 2016 examination for the post of P.S.I got selected on 12.4.2019 and accordingly joined training on 7.4.2020. He had also appeared for the 2018 examination. On 6.2.2020, Mr Sawale informed Respondent no. 1, M.P.S.C that he is no more interested in the Examination of 2018. (Exh. N, page 86 of the Paper Book). Therefore, his candidature may be allowed to be withdrawn. He also informed the same by Speed Post on 20.2.2020, which was received by M.P.S.C on 24.2.2020. Learned counsel for the applicant, Mr Khaire, during hearing informed that Mr Anil N. Sawale also intimated Respondent no. 2, D.G.P on 29.1.2021. Copy of the same is taken on record and marked as Exh. X-3.

4. Meanwhile, Respondent no. 1, M.P.S.C published the names of eligible candidates on 17.3.2020 (Exh. A of the Paper Book). The name of Mr Sawale appears at Serial No. 377 in the OBC-Sports-2 category. As the candidate at Serial No. 377 Mr Anil N. Sawale did not join the training, D.G.P, informed Home Department (who is not Respondent) on 19.5.2021 stating that Mr Anil N. Sawale is not interested in joining as P.S.I as per the results of 2018 examination. Respondent no. 2, D.G.P therefore, requested that he should be replaced by a wait listed candidate along with five others, as 5 other selected candidates did not join the same. The same was acknowledged by the Home Department on the same day.

5. Learned P.O produces a copy of the same during hearing and the same is taken on record and marked as Exh. X for the purpose of identification.

6. On 2.8.2019, G.A.D (not party to the O.A) had issued G.R, (Exh R-1), regarding recommending of wait listed candidates, the relevant portion of the same reads as under:-

“५. नियुक्ती रद्द केल्याचे आदेश निर्गमित केल्यापासून १ महिन्याच्या आत महाराष्ट्र लोकसेवा आयोगास प्रतिक्षायादीतील उमेदवारांची प्रवर्गानिहाय शिफारस करणेबाबत पत्र निर्गमित करावे.”

7. The list of the recommended candidates was published on 17.3.2020. However, due to the Covid-19 Pandemic the candidates who were recommended were directed to join the training programme on 24.6.2021. Though the list was published on 17.3.2020, the M.P.S.C sent the communication of recommendation on 14.7.2020. The D.G.P had sent the requisition on 29.5.2021 to Home Department. As per the G.R dated 2.8.2019, it was obligatory on the part of the Home Department to send the requisition within a period of 30 days from the date of receipt of the communication from D.G.P.

8. Today during hearing, learned P.O admits that no requisition has been sent to M.P.S.C so far by the Home Department. She informs that the Home Department had made internal reference to G.A.D as the period for sending requisition is beyond the period of one year. As mentioned above, the facts are clear that the vacancy had come to the knowledge of the D.G.P as well as Home Department within one year and it was binding on them to follow the instructions contained in the G.R dated 2.8.2019.

9. The delay on the part of the Home Department should not be the reason for denying the opportunity for a deserving candidate belonging to the Sports category and particularly from OBC. It is the policy of the Government to ensure encouragement to deserving candidates from

Sports category and particularly if they belong to reserved category, as the present applicant.

10. It will be appropriate if the applicant is not made to suffer for the delays by the Home Department in communicating their decision to M.P.S.C in time, namely within 30 days.

11. We, therefore, direct the Home Department to send their requisition to M.P.S.C so as to recommend the names of candidates as per the merits in the waiting list. The delay beyond the period of one year should not come in the way for the M.P.S.C from sending the recommendation as the applicant has approached this Tribunal in time and as explained above, the delay is on account of the Home Department in not sending the requisition in time.

12. In view of the above we pass the following order:-

- (a) The Home Department should send requisition to M.P.S.C within a period of three weeks.
- (b) M.P.S.C should recommend the names of the candidates from the waiting list from OBC Sports category and if as per merits, the applicant is eligible, his name should also be considered, within a period of three weeks thereafter.
- (c) The entire process should be completed within a period of 45 days from the date of this order.

13. Original Application stands disposed of accordingly.

Sd/-
(P.N Dixit)
Vice-Chairman (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 20.07.2021
Dictation taken by : A.K. Nair.