

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 486 OF 2021

DISTRICT : MUMBAI

Shri Sunil Nana Patil,)
Occ – Service,)
R/o: Worli B.D.D Chawl,)
69, Room no. 15, Worli,)
Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra)
Through its Additional Chief)
Secretary, Home Department,)
Mantralaya, Mumbai 400 032.)
2. Director General of Police,)
S.B.S Road, Colaba,)
Mumbai 400 005.)
3. Maharashtra Public Service)
Commission, office at)
Cooperage Telephone Exchange,)
M.K Road, Cooperage,)
Mumbai. Through Secretary.)...**Respondents**

Shri C.K Bhangoji, learned advocate for the Applicant.

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

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

DATE : **23.07.2021**

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

J U D G M E N T

1. Heard Shri C.K Bhangoji, learned advocate for the Applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

2. Learned counsel for the applicant submits that he appeared for the Departmental Examination of the 2008 Batch. The colleagues of the applicant who were similarly situated have been given relief by the Respondents vide their order dated 30.6.2021 following the directions dated 29.4.2021 given by the Hon'ble High Court in W.P 97384/2020. In this regard, he also referred to the order dated 28.5.2021 issued by this Tribunal in O.A 907/2018. The relevant portion of the same is reproduced below:-

“5. In Sudesh R. Kadam's case, W.P (S) No. 97384/2020, dated 22.4.2021, the Bombay Hon'ble High Court observed as under:-

“2. *Inasmuch the aforesaid aspect is not in dispute, without prejudice to the rights and contentions of the parties and on the statement of learned counsel for the Petitioner, that the Petitioner would not claim any equities or seniority, we direct the Respondents to permit the Petitioner to undergo the training by including him in the list of candidates for training (batch no. 119) scheduled to go for training from 26th April, 2021.*”

6. In Akhtar Hashim Shaikh's case, W.P 12319/2019 dated 21.5.2021, the Hon'ble Bombay High Court observed as under:-

"2. The learned advocate for the Petitioners states that the Petitioners are similarly placed and are at par with the Petitioner in Writ Petition (ST) No. 97384 of 2021. Therefore, the Petitioners be included in the training session for the post of Police Sub Inspector in Batch No. 119.

3. The above Writ Petition was before us on 19th May 2021, when the learned AGP sought time on the ground that he has to confirm whether the Petitioners are similarly placed with the Petitioner in Writ Petition (ST) No. 97384/2021. Today, the learned AGP once again seeks time on the same ground. We are not inclined to accede to his request and proceed to pass the following order:-

(i) Respondent no. 1 shall within a period of one week from today ascertain whether the Petitioner are similarly placed with the Petitioner in Writ Petition (ST) No. 97384 of 2021, and if they are found to be similarly placed, they shall be included in the training session for the post of Police Sub Inspector in Batch No. 119, which training is scheduled to commence on and from 21st June, 2021. It is clarified that all rights and contentions of the parties are kept open, in case they are required to be addressed at the time of hearing of the above Writ Petition."

7. Learned counsel for the applicants also relied on the judgment of Hon'ble Supreme Court in State of Uttar Pradesh & Ors. Arvind Kumar Srivastava & Ors, Civil Appeal No. 9849/2014 (arising out of SLP (C) No. 18639/2012) dated 17th October, 2014. Relevant para is reproduced below:-

"23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the

appellants as well as the respondents, can be summed up as under:-

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.....

*(2) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see **K.C Sharma & Ors Vs. Union of India** (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them, shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”*

3. The applicant has made representations on 22.4.2021 and 12.7.2021 to the Respondents.

4. In view of the above, the Respondents are directed to verify whether the applicants are similarly situated at par with the candidates selected vide order dated 5.3.2018 and if the applicants

are found similarly placed at par with candidates selected vide order dated 5.3.2018, the Respondents shall send the applicants to undergo the training by including them in the list of candidates for training in Batch 119, which is scheduled to go for training from 21.6.2021. The said exercise should be completed within a week from the date of receipt of this order5.

5. Original Application stands disposed of accordingly. No order as to costs.

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

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 23.07.2021
Dictation taken by : A.K. Nair.