

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.01/2015.

(S.B.)

Siddhartha Sambha Sahare
Aged about 35 years,
Occ-Presently Nil,
R/o village Manapur, Taluka-Armori,
Distt. Gadchiroli.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Revenue & Forests,
Mantralaya, Mumbai-32.
2. The Secretary,
Department of Rural Deveopment,
Mantralaya, Mumbai-32.
3. The Collector,
Gadchiroli.
4. The Tehsildar, Armori,
District Gadchiroli.
5. Shivram Somaji Kumoti,
Aged Major,
Occ-Service,
R/o Near the house of Police Patil, Jambhali,
Post- Rangi, Tq. Armori,
District Gadchiroli.
6. Kamlesh Madavi, **(His name is deleted)**
Aged Major,
Occ-Service,
R/o Delanwadi, Tq. Armori,
District Gadchiroli.

Respondents.

Shri M.K. Kulkarni, the learned counsel for the applicant.
Shri P.N. Warjekar, the Ld. P.O. for respondents 1 to 4.
None appeared for respondent No.5.

**Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 5th day of January 2018).

Heard Shri M.K. Kulkarni, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for respondent Nos. 1 to 4. None appeared for respondent No.5.

2. The applicant Siddhartha Sambha Sahare has claimed for directions to the respondents to appoint him on compassionate ground on a suitable post as per his qualification. He has also prayed that the appointment order in respect of respondent No.5 and 6 as Kotwal be quashed and set aside and the applicant's application for appointment to the post of Kotwal be considered.

3. Applicant's father Sambhaji Hari Sahare was serving as Kotwal till his death on 12.2.2008 at village Delanwadi and Jambhali, Survey Nos.11 and 13. He died during service. The applicant was also staying with his father and having experience to work as Kotwal for about 10 to 15 years.

4. According to the applicant, he had filed representations on 24.1.2013, 14.2.2013 and 16.4.2013 and

requested that he be appointed as Kotwal in place of his father, as per Government policy and also because he had experience to work as Kotwal. However, his representations were not considered and without considering his representations, the respondent authorities appointed respondent No.5 as Kotwal of village Jambhali and respondent No.6 Kamlesh was also appointed at village Delanwadi at Kotwal. Subsequently the name of respondent No.6 has been deleted. The applicant claims that the appointment of respondent No.5 as Kotwal of village Jambhali is illegal and hence the same be quashed and set aside.

5. The applicant places reliance on the judgment delivered by this Tribunal, Nagpur Bench in **O.A. No. 373/2005 in case of Jayesh Baburao Bhaisare V/s State of Maharashtra and others delivered on 6.12.2005** and submitted that as per the said judgment, the applicant should have been appointed.

6. The Tehsildar, Armori (R.4) has filed reply affidavit. According to respondent No.4, office of respondent No.3 vide order dated 11.5.2012 accorded permission to fill up four posts of Kowal in Armori Tehsil. Accordingly, recruitment process was carried out, as per the revised rules and guidelines promulgated by the Govt. of Maharashtra in G.R. dated 20.5.2010. The roster has been verified from the Assistant Commissioner, Backward Class Cell, Nagpur and as

per the said roster, posts of Kotwal were reserved for Open category. Accordingly, proclamation was issued for the said vacant posts and applications were invited from the eligible candidates till 24.1.2013. The applicant submitted his application for the post of Kotwal of village Delanwadi saza. On 12.2.2013, written and oral tests were conducted and in the said tests, respondent No.6 stood first in merit having scored 74 marks out of 100, whereas the applicant scored only 43 marks and, therefore, the respondent No.6 was appointed to the post of Kotwal of village Delanwadi.

7. It is further stated by the respondent No.4 that in the year 2009, recruitment process for the post of Kotwal of village Jambhali was carried out as per G.R. dated 9.9.2008. Applications were received, out of which five applications were valid. Examination was conducted on 14.9.2009 and merit list was published on the same date. The respondent No.5 was appointed as village Kotwal of village Jambhali, Tehsil Armori, District Gadchiroli. The applicant did not appear for the said examination. Since the applicant did not participate in the recruitment process for the post of Kotwal of village Jambhali, there was no question of he being considered for the said post.

8. The respondents relied on the Government letter dated 25.4.1997 and a G.R. dated 28.2.1974, wherein it has been stated that all other things being equal, preference may be given to the

son of the Kotwal for appointment as Kotwal over the other contesting candidates.

9. The applicant could not place on record even a single document to show that there was any Govt. policy to appoint the son of Kotwal on the post of Kotwal after the Kotwal retires or dies during service period. On the contrary, the respondents have placed on record a letter dated 28.2.1974 (Annexure R-4 III) at page Nos. 72 to 74 (both inclusive), from which it seems that the Govt. has accepted the recommendation that if all other things are equal, preference may be given to the son of the Kotwal for appointment as Kotwal over other contesting candidates.

10. In the present case, admittedly, the applicant participated in the recruitment process of Kotwal only as regards the post of Kotwal of village Delanwadi. In the said recruitment process, he got only 43 marks out of 100 whereas respondent No.6 stood first in merit having scored 74 marks out of 100 and, therefore, respondent No.6 was rightly appointed.

11. So far as the appointment to the post of Kotwal of village Jambhali is concerned, admittedly, the applicant did not participate at all in the said recruitment process and, therefore, there was absolutely no question of considering applicant's application for the post of Kotwal of village Jambhali. Earlier, the applicant has not

challenged the recruitment process and on the contrary participated in the recruitment process. In such circumstances, since the appointment was on merit, there was no question of considering applicant's application for the post of Kotwal. Though, the applicant is claiming appointment on compassionate ground, no case has been made out for appointment on compassionate ground and there is nothing on record to show that the said post can be filled in on compassionate ground.

12. Though, the learned counsel for the applicant placed reliance on the judgment of this Tribunal in **O.A. No. 373/2005 in case of Jayesh Baburao Bhaisare V/s State of Maharashtra and others delivered on 6.12.2005,** facts of the said case are not analogous with the present set of facts. In the said case, question for consideration before this Tribunal was whether the son of a Kotwal and not the heirs of the Kotwal were eligible to be appointed. The said judgment is not at all relevant with the case of the applicant. As already stated, the respondents have filled the post of Kotwal by recruitment process on merits and such recruitment process is not challenged at all. Considering all these aspects, I do not find any merit in this O.A. Hence, the following order:-

ORDER

The O.A. is dismissed with no order as to costs.

Dt. 5.1.2018.

(J.D.Kulkarni)
Vice-Chairman(J)

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