

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 225 of 2017 (D.B.)**

Rameshwar Devidas Wakpanjar,  
Aged about 49 yers, Occ. Nil, R/o Sainik Colony,  
Daryapur, District Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through the Secretary,  
Department of Home,  
Mantralaya, Mumbai-32.
- 2) Superintendent of Police (Rural),  
Near Collector Office, Camp, Amravati.

**Respondents**

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**Shri R.V. Shiralkar, Advocate for the applicant.**

**Shri A.M. Ghogre, Id. P.O. for the respondents.**

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

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**JUDGEMENT**

**(Delivered on this 19<sup>th</sup> day of September,2017)**

Heard Shri R.V. Shiralkar, Id. Counsel for the applicant  
and Shri A.M. Ghogre, Id. P.O. for the respondents. The O.A. is heard  
finally with consent of Id. counsel for parties.

2. The applicant has prayed for the relief for the declaration that insistence by respondent no.2 that 12<sup>th</sup> Standard Certificate is required as qualification from Ex- Serviceman category for the post of appointment of Police Constable, be declared illegal and respondent no.2 be directed to issue appointment order in his favour immediately.

3. From the facts on record it seems that the applicant has passed 9<sup>th</sup> Standard and came to be appointed in Indian Army on 8/10/1985. He cleared the training and he was posted as Naik till 30/4/2004 i.e. till the date of retirement. The applicant has put in 18 years and 7 months service in Indian Army. After retirement the applicant has passed 10<sup>th</sup> Standard Board examination on 2/11/2005.

4. The applicant came across the advertisement issued by respondent no.2 dated 29/9/2011 and applied for the post of Police Constable. The respondent no.2 accepted the application, the applicant participated in the examination in the selection process and his name appeared at sr.no.97 in the list of candidates in favour of whom order of appointment was issued. Not only that the applicant joined in service as Police Patil on 22/5/2012, however in the meantime there was litigation as regards horizontal reservation in respect of appointment and in view thereof the selection and appointment was cancelled.

5. An order was issued regarding cancellation of selection and recruitment process by S.P., Amravati on 22/5/2012. 529 candidates were selected out of which 158 were actually given appointment. All of them approached to the Government and requested for regularization of their appointments.

6. In view of the request of the applicants the Govt. of Maharashtra was pleased to issue a Notification dated 22/8/2014 and has taken following decision.

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7. Most of the candidates were appointed except the applicant. The applicant has received a letter dated 27/1/2015 (Annex-A-8) whereby it was stated that the process of preparing a list of the candidates to be appointed as Police Constables was under

process. However, vide Annex-A the applicant received one communication wherein it was stated that though the applicant has completed 15 years service in Military, he has passed S.S.C. after completion of the Military Service and therefore he is not eligible to be appointed as Police Constable. The respondents have placed on record the correspondence Exh-R-1 at P.B. page nos. 47 & 48 (both inclusive) from which it is clear that even though the qualification for the post of Police Constable for General category and other category is passing of 12<sup>th</sup> Standard, a special concession is given to the Ex-serviceman who have served for more than 15 years as Ex-serviceman and have acquired SSC qualification. In short, the qualification Clause for Ex-serviceman category is relaxed as under :-

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djko; kl gjdr ukgh.\*\**

8. The applicant is admittedly Ex-serviceman for more than 15 years and has acquired qualification of SSC. It makes no difference whether he acquire that qualification after retirement from

Military Service or during service. Admittedly, he was matriculate on the date of advertisement and as such was qualified.

9. The respondents tried to justify the said communication. I have carefully gone through the advertisement dated 29/9/2011 whereby the applications were called for the post of Police Constable. The said advertisement clearly shows that the applicant must be qualified on the date of advertisement. It is not disputed that the applicant has passed the qualifying examination in 2009 itself and therefore on the date of advertisement he was holding required qualification. It is also not disputed that the applicant has served in the Military for more than 15 years. Thus the applicant satisfied both the conditions which are required for being appointed as Police Constable. In such situation his passing out matriculation after completion of Military service cannot come in way of his appointment. Perusal of the appointment vide impugned communication Annex-A-9 is therefore not legal and proper and therefore no other way for the respondents but to appoint the applicant. In view thereof the following order :-

### **ORDER**

The application is allowed. It is held and declared that the applicant is entitled to be appointed to the post of Police Constable

from Ex-Serviceman category. The respondent no.2 is directed to issue appointment order in favour of the applicant as soon as the vacancy arises as Police Constable from Ex-Serviceman category within one month from the date of this order. No order as to costs.

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

dnk.