

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 262 of 2020 (S.B.)**

Kanchan S/o Bhopaji Chavhan,  
Aged about      years, Occu : Service as P.S.I.,  
C/o Highway Safety Patrol, Nagpur, Dist. Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary, Home Department,  
Mantralaya, Mumbai-32.
- 2) Special Inspector General of Police (Establishment),  
Directorate of Police, Maharashtra State,  
Shahid Bhagatsingh Marg, Kulaba,  
Mumbai-400 001.
- 3) Superintendent of Police,  
Gadchiroli, Distt. Gadchiroli.
- 4) Deputy Inspector General of Police,  
Gadchiroli Range, Camp Nagpur,  
Dist. Nagpur.
- 5) Director, Maharashtra Police Academy,  
Nashik, Trambkeshwar Road,  
Distt. Nashik.

**Respondents.**

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**Shri S.M. Khan, Advocate for the applicant.**  
**Shri A.P. Potnis, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

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**Date of Reserving for Judgment : 7<sup>th</sup> July,2022.**

**Date of Pronouncement of Judgment : 22<sup>nd</sup> July,2022**

## **JUDGMENT**

**(Delivered on this 22<sup>nd</sup> day of July,2022)**

Heard Shri S.M. Khan, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant has passed examination of the post of Police Sub Inspector (PSI) conducted by MPSC. He was selected for the said post. The applicant was deputed for training from 1/6/2004 to 4/3/2005. The applicant after completion of training on 4/3/2005 was shown absent in the final result of “Pistol Firing Subject”. The applicant was declared failed. The applicant has cleared the internal as well as external examination. Again the examination of pistol firing was taken on 12/09/2004 within three months of beginning of the training session and not in February,2005. The applicant was demoted. In demotion order, the respondent no.2 mentioned that the Pistol Firing Examination conducted on February, 2005 at the end of the session, is illegal. It is submitted that the applicant was ill and therefore he could not remain present for the examination of Pistol Firing.

3. In the month of July,2005 the applicant was posted at Gadchiroli. There was order directing the applicant to remain present

for Pistol Firing Examination which was of 25 marks. The applicant could not remain present for the said examination, because, he did not receive any order from the respondents. Therefore, the applicant was demoted as a Head Constable. The applicant submitted written representation to the respondent no.2 and respondent no.5. It was admitted by the Director of Training Centre, Nashik that the applicant was ill during the examination and said fact was informed to respondent no.2. Therefore one attempt was intact. On the second time, it was not informed to the applicant to remain present for the examination of Pistol Firing. On 6/3/2010 the applicant made representation to the respondent no.1. He was given chance to clear the examination of Pistol Firing. The applicant had passed the Pistol Firing Examination on 30/3/2010. The applicant was not given the regular post as his probation is not completed. Hence, prayed to direct the respondents to grant deemed date of promotion and confirmation to the applicant w.e.f. 19/6/2006, as directed by respondent no.4 with benefit of all the relevant promotion which were given to the applicant's batch mate PSI's of Session No.(95).

4. The O.A. is strongly objected by the respondents. It is submitted that the applicant was enlisted as a Police Constable in the Police Department. The applicant appeared for the limited departmental examination for appointment as PSI. The said

examination was conducted by the MPSC for the year 1998. The applicant was declared passed for appointment as PSI. He was sent for training. The applicant was absent for Pistol Firing Examination due to his illness. The applicant was continued on probation at Gadchiroli. The applicant was under suspension for the misconduct committed by him. The applicant was again given second permission for giving Pistol Firing Examination vide order dated 25/6/2007. However, the applicant could not succeed in second attempt. Therefore, appointment of the applicant as a probationer PSI, was cancelled vide order dated 16/10/2006.

5. The applicant was repatriated to his original post of Police Head Constable at his parent department, i.e., Nagpur Commissioner of Police. The applicant came to be dismissed in the departmental inquiry on 4/8/2010. The applicant preferred statutory appeal. The State Government vide order dated 6/4/2013 reinstated the applicant in service as a Police Head Constable by modifying the punishment of dismissal from service. It was also decided his absent period w.e.f. 4/8/2010 to 1/3/2013 to be treated as duty period only for the purpose of pensionary benefits.

6. The State Government vide its decision dated 6/3/2010 gave third chance to the applicant to appear for Pistol Firing Examination. Accordingly, the applicant appeared for the examination

and passed the examination. Hence, the applicant was again came to be appointed as officiating PSI vide order dated July,2013 and was posted in Gadchiroli Range for completing his probation period. Accordingly, the applicant reported there on 1/8/2013.

7. The probation period of applicant was extended nearabout 7 years. This was extended only because of misconduct of applicant in other words there have been no administration lapses for extension of probation period of applicant in the cadre of PSI. He was inflicted with a punishment of fine of Rs.2000/-. Thereafter also the applicant was dismissed from service. As per the order of the State Government in appeal he was reinstated in service, therefore, probation period of the applicant could not be cancelled. Hence, the O.A. is liable to be dismissed.

8. Heard Shri S.M. Khan, learned counsel for the applicant. He has submitted that the applicant has passed the examination of PSI. He was sent for training to Nashik in the Pistol Firing Examination. He was shown absent. The applicant could not remain present for the said examination, because, he was ill. This fact is not disputed, therefore, it cannot be said that it was first chance. The learned counsel for the applicant submitted that on second time, he was given chance to appear for the examination, but that order was not served to him, therefore, it cannot be said to be a second chance.

On third chance the applicant appeared for the examination and passed the said examination. The learned counsel has submitted that the probation period of applicant is continued since last 7 years. It cannot be continued for a long period. The learned counsel has pointed out recommendation of respondent no.4 dated 5/1/2016 and submitted that the respondent no.1 & 2 not considered the said recommendation, therefore, prayed to direct the respondents to consider the recommendation of respondent no.4 and cancel the probation of applicant and give all the benefits.

9. Heard learned P.O. Shri A.P. Potnis. He has submitted that the applicant was suspended for 2-3 times. Lastly he was dismissed from service. But in the appeal he was reinstated on the post of Head Constable. The applicant could not pass the Pistol Firing Examination. Lastly, he passed the examination, therefore, he was posted at Gadchiroli on probation.

10. The learned counsel for applicant Shri S.M. Khan submitted that the applicant was punished for the misconduct. He cannot be again punished.

11. The respondent no.4 has considered all the grievances of the applicant. Respondent no.4 has in details submitted his recommendation to respondent no.2 vide letter dated 5/1/2016. The last para of the letter reads as under –

“ तरी उपरोक्त विवेचन विचारात घेवून श्री. चव्हाण यांचा वाढीव परिविक्षा कालावधी दिनांक १२/३/२००६ ते ११/९/२००६ हा रद्द करण्याबाबत कृपया यथोचित आदेश होण्यास विनंती आहे. जेणेकरून त्यांना दिनांक २०/३/२००६ पासून नियमित सेवेत सामवून घेणे अथवा वाढीव परिविक्षा कालावधीसह दिनांक १३/११/२०१३ पासून सेवेत सामावून घेण्याबाबत पुढील योग्य ती कार्यवाही करणे या कार्यालयास शक्य होईल.”

12. It is for respondent nos.1 and 2 to decide as to whether the recommendation of respondent no.4 is proper or not. Hence, the following order –

### **ORDER**

(i) The O.A. is partly allowed.

(ii) The respondent nos.1&2 are directed to consider the recommendation of respondent no.4 vide letter dated 5/1/2016 and decide the probation period of the applicant within a period of three months from the date of receipt of this order.

(iii) No order as to costs.

**Dated** :- 22/07/2022.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 22/07/2022.

Uploaded on : 22/07/2022.