

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.288/2017. (D.B.)

Nilesh Tryambakrao Chauhan,
Aged about 33 years,
Occ- Nil,
R/o Nandgaon Khandeshwar,
Tq. Nandgaon Khandeshwar,
Dist.Amravati.

Applicant.

-Versus-

1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-400 032.

2) The Superintendent of Police,
Chandrapur.

Respondents

Shri N.D. Thombre, the learned counsel for the applicant.
Shri V.A. Kulkarni, the learned P.O. for respondents.

**Coram:-Shri Shree Bhagwan, Vice-Chairman and
Shri Anand Karanjkar, Member (J)**

Judgment is reserved on 24th April 2019.

Judgment is pronounced on 26th June 2019.

JUDGMENT

(Delivered on this 26th day of June 2019.)

Per:- Member(J)

Heard Shri N.D. Thombre, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents and perused the documents filed on record.

2. The respondent No.2 published advertisement on 24.2.2017 for the recruitment of Police Constables on the establishment of District Police Force, Chandrapur. Total 22 posts were reserved for OBC, out of which, one post was reserved by horizontal reservation for police ward. It is contention of the applicant that he applied for the post under OBC (police ward) category, his application was scrutinized, he was called for written examination, physical examination and interview and he scored total 126 marks. It was noticed that the respondent No.2 published provisional list, in which applicant's name was not mentioned and consequently the applicant raised objection that the recruitment was not as per advertisement dated 24.2.2017.

3. It is submission of the applicant that as per first advertisement dated 24.2.2017, one post was reserved by horizontal reservation for OBC (police ward) category and thereafter the respondent No.2 again issued advertisement dated 5.5.2017 and accordingly reservation of one post by horizontal reservation for OBC (police ward) category was cancelled. It is submitted that this

procedure followed by the respondents is absolutely illegal. It is also contended by the applicant that it was contended by the respondents that the decision was taken to appoint 9 persons on compassionate ground, but actually one person namely Manoj Kuite was appointed from police ward category and, therefore, there is violation of rules and malpractice and consequently the applicant be appointed on the post, as he scored 126 marks.

4. The respondents have subtitled their reply and resisted the application and justified their action. It is contention of the respondents that it was specifically mentioned in para 2 clause (a) and (e) of the advertisement that the rights were retained by respondent No.2 to effect any change in number of posts and reserved posts and the candidate would not have any right to challenge the same. It is submitted that as per the policy of the Government to give appointments to the dependents of the deceased Government servant in the Police Department on compassionate ground, decision was taken to fill 9 posts of Police Constables on compassionate ground and consequently horizontal reservation for OBC (police ward) was cancelled. It is specifically submitted that the respondent No.2 has not violated the law and as the applicant did not score the marks as per cut off fixed for OBC (General) category,

therefore, he was not selected. It is submitted that there is no substance in the application, it is liable to be dismissed.

5. We have perused the advertisement (Annexure A-2). It is specifically mentioned in para 2 clause (e) that the respondent No.2 had retained the right to change the number of posts and reservation. It is also mentioned that proper decision would be taken regarding this as per the situation. On 5.5.2017, it was notified by the respondent No.2 that for filling the posts on compassionate ground, decision was taken and it was decided to fill 9 posts of Police Constables on compassionate ground and consequently the posts reserved for OBC (police ward) was cancelled. It is submitted that total 22 posts were reserved for OBC category and as per 3% reservation for police ward category, one post was initially reserved. Thereafter as 9 posts were to be filled on compassionate ground, therefore, the post was not available for the police ward.

6. So far as contention of the applicant that one Manoj Kuite was appointed on compassionate ground is concerned, it is submitted that one O.A. No. 261/2016 was filed. In that proceedings, Manoj Kuite was respondent and his appointment was challenged on the ground that he did not apply under the category of police ward,

but he was appointed in that category. It appears that the O.A. No. 261/2016 was decided by this Bench and consequently it is not possible to accept that Shri Manoj Kuite had applied in response to the advertisement dated 24.2.2017. As right was retained by respondent No.2 to modify number of posts reserved for distinct categories and the respondent No.2 published notification on 5.5.2017 to fill 9 posts on compassionate ground, as per Government policy. Consequently we do not see any merit in this O.A. Hence, we proceed to pass the following order:-

ORDER

- (i) The O.A. stands dismissed.
- (ii) No order as to costs.

(Anand Karanjkar)
Member (J)

(Shree Bhagwan)
Vice-Chairman

Dt. 26th June 2019.

pdg

