

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.379 OF 2015

DISTRICT : PUNE

Smt. Punam Balasaheb Madage.)
Room No.13, Building No.3,)
Gokhalenagar Police Line, Pune 411 016.)...**Applicant**

Versus

1. The Chairman.)
Maharashtra Public Service)
Commission, Fort, Mumbai.)
2. The Director General of Police.)
Maharashtra State,)
Shahid Bhagatsing Marg,)
Mumbai - 400 001.)...**Respondents**

Smt. Punam Mahajan, Advocate for Applicant.

Ms. N.G. Gohad, Presenting Officer for Respondents.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 14.07.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)



JUDGMENT

1. The issue is as to whether an extremely short delay which could be even just for a day should eclipse the future prospects of the Applicant who is at present a Woman Police Constable and who had substantially cleared the examination for the post of Police Sub-Inspector (PSI) from Female OBC category and her undoing was that on account of a strike in the concerned department, she could not submit Caste Validity Certificate on time.

2. The facts to the extent they now need to be set out are that the Applicant joined the Constabulary on 16.9.2007 and then about 7 years thereafter, she responded to the Advertisement for the post of PSI. It is not disputed even by the Respondents that she cleared all the various stages up to the interview. The 1st Respondent has somewhat pointlessly referred to the fact that the Applicant could not make it from Open General category and was not eligible from unreserved category. She was considered from OBC Female category. It was on 9.3.2015 that the Applicant applied for Non-Creamy Layer when physical test was held on 16.3.2015, she did not have it for the causes beyond her because after-all, some other official



authority had to prepare and give it to her. She got the same the next day i.e. 17.3.2015 but she was not interviewed on 20.3.2015 while the results came to be declared two months thereafter on 20th May, 2015 in which her name was not included because she has not been interviewed, and therefore, she brought this OA. She seeks directions for the Respondent No.1 – MPSC to accept the Non-Creamy Layer Certificate submitted by her on 28th March, 2015 and consequential relief of her name being recommended for the post of PSI from Female OBC category. She came to know that at the end of the physical test, she had secured 159 marks while the cut-off for OBC Female was 146 marks. Therefore, she claims to have cracked the examination. In Para 6.7 of the Original Application, the Applicant has mentioned the fact that as on 16th March, 2015, she could not produce the said Certificate as there was a strike in a Tahsil Office at that time. We have closely perused the Affidavits-in-reply and we find that in dealing with this particular Para, in Para 13 of the reply of the 1st Respondent, the fact that it was on account of the strike that the Applicant could not comply has not even been dealt with. For want of traverse, therefore, this fact will have to be held constructively admitted. Although the Respondents have harped on the instructions issued from time to time by the Respondent



No.1 with regard to the production of the said Certificate on time, on pains of getting the candidature cancelled.

3. Quite pertinently, on 28th March, 2015 itself by a communication, a copy of which is at Annexure 'A-6' (Page 19 of the paper book), the Applicant had informed the MPSC being the 1st Respondent that the strike was going on and hence, the difficulty in producing the said Certificate.

4. We have perused the record and proceedings and heard Mrs. Punam Mahajan, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

5. We do not think anything more needs to be said in so far as grant of the prayer herein is concerned. When the delay was so short as it was, we do not think we can work on the hypothetical proposition that once a date is ear-marked if such indulgence is shown, then someone might even take disadvantage by making the compliance long time thereafter. We are not on any academic mission and we have to decide this OA on hard facts. The hard facts are that here the delay was absolutely insignificant and it is no doubt true that ideally the deadlines for



various stages having been announced in advance, they should be kept, but then one is not quite aware of anything which is completely ideal in this turmoil ridden system and socio administration milieu. It is in this background that we may usefully refer to an order of this very Bench that spoke through the Hon'ble Vice-Chairman in **OA 82/2014 (Mrs. Sunita Ashish Amritsagar Vs. The Secretary/Chairman, MPSC, dated 13.8.2015.** This order was confirmed by the Hon'ble High Court in Writ Petition No.12517/2015 (MPSC Vs. Mrs. Sunita A. Amritsagar, dated 24.2.2016. A small passage from Para 5 of the said order would be quite pertinent, and therefore, we quote the same hereinbelow.

“In any case, we find that the interviews continued at least till 23.1.2014 (as stated by the Applicant in para 2 of her rejoinder affidavit dated 18.6.2014) and if on 10.1.2014 the Applicant could produce Certificate valid for 2011-2012 in her maiden name, she could have been allowed to participate in interview. It is not that M.P.S.C. never allows candidates to produce Certificate later than the date on which they are required to produce, but before the selection process is over. In O.A.No.348 of 2012 filed



before this Tribunal (Aurangabad Bench), in the affidavit filed on behalf of M.P.S.C., it is seen that a candidate whose candidature was initially rejected was allowed to produce experience Certificate. In the present case, there are circumstances which support the case of the Applicant that she did produce NCL Certificate of 2011-2012 at the time of interview on 7.1.2014. Even if that claim is not accepted, on 10.1.2014, she had produced NCL Certificate of 2011-2012 and NCL Certificate of 2013-2014 dated 9.1.2014. As the selection process was still on, her request could have been considered by the Respondent without any disturbance to the selection process. It is evident that the Respondent does allow the Certificates to be submitted till the selection process is over in many cases.”

6. We are, therefore, quite clearly of the opinion and we conclude accordingly that a case for relief has been successfully made out by the Applicant and this OA will also have to be decided on the same lines as we did **Mrs. Sunita's OA** (supra).

A handwritten signature in black ink, appearing to be 'Sunita', written over a diagonal line.

7. The Respondent No.1 is directed to interview the Applicant within a period of three months from today and if found suitable, recommend her for the appointment to the State Government to the post of Police Sub-Inspector from the category that she was found eligible. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
14.07.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
14.07.2016

Mumbai

Date : 14.07.2016

Dictation taken by :

S.K. Wamanse.

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