

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.410/2017.

(D.B.)

Sursh Shyamlal Katre,
Aged about 30 years,
Occ- Nil, R/o Fulchur, Dist. Gondia.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-400 032.
- 2) The Additional Director General of Police,
Police Wireless Message,
(M.S.), Pune-411 008.
- 3) The President of Appointment Committee/
Superintendent of Police (Wireless),
Head Office, Police Wireless Message,
(M.S.), Pune-411 008.
- 4) Dilip Shivaji Pawar,
Aged about 26 years, Occ-Constable,
Presently posted at Superintendent of Police,
Akola.
- 5) Panchayya Rajkumar Swami,
Aged about 31 years, Occ-Constable,
Presently posted at Superintendent of Police,
Oosmanabad.

Respondents

Shri V.R. Borkar , the learned counsel for the applicant.
Shri H.K. Pande, the learned P.O. for respondents 1 to 3.
None appeared for respondent Nos. 4 and 5.

**Coram:- Shri Shree Bhagwan, Member (A) and
Shri A.D. Karanjkar, Member (J)**

ORAL ORDER

PER:- MEMBER (J)

(Passed on this 5th day of March 2019.)

Heard Shri V.R. Borkar, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for respondent Nos. 1 to 3. None appeared for respondent Nos. 4 and 5.

2. Case of the applicant is that, in response to the advertisement published by the respondents for filling the posts of Police Constables, the applicant submitted his application under OBC (Sports) quota. It is contended that one post was reserved for OBC (Sports) quota. The applicant appeared for the written test. He secured 39 marks out of 100, name of the applicant was not seen in the provisional select list. But he was called for physical test and for verification of documents. Thereafter, the respondent No.2 published a final select list in which name of the applicant was not included. The applicant made enquiry why he was not selected, but there was no response.

3. In this application, it is submitted by the applicant that directions be given to respondent No.2 to relax the qualifying

marks and declare that the applicant has successfully passed the examination and give him appointment order. It is submitted that the respondent No.2 has appointed other two OBC candidates on the post of Constable. But the post of OBC (Sports) quota is lying vacant. Therefore, in the interest of justice, relief be granted to the applicant.

4. Application is opposed by the respondents on the ground that as per rules, the respondent No.2 rightly refused appointment to the applicant, as the applicant did not score minimum passing marks and no one has authority to relax the marks.

5. We have heard the submission on behalf of the applicant and on behalf of the respondents. On perusal of Recruitment Rule which are at page No.67 (Annexure R-1), it seems that as per Clause 7 (A) and Clause (B), it was mandatory condition that the candidates shall score at least 50% marks and only such candidates be called for interview as per the proportion. The learned counsel for the applicant submits that the MPSC has framed the rules and as per said rules, minimum passing marks can be relaxed in respect of candidates belonging to Backward Class and Physically Handicapped and candidates applying from the Sports quota. It is submitted that on the basis of this, the respondent No.2 could have

relaxed minimum passing marks, as the applicant was the only candidate who scored 39 marks. We do not see any merit in the contention for the reason that the Govt. of Maharashtra has issued Notification in official gazette dated 4.3.2014 and brought the Recruitment Rules in force in the State of Maharashtra. As these special Recruitment Rules are framed for the recruitment and appointment in the Police Department, no one has authority to make any relaxation in the minimum requirement so long as the rules are not declared *ultra vires*. In view of this discussion, we are of the view that the application is devoid of merit. Hence, we proceed to pass the following order:-

ORDER

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

(A.D. Karanjkar)
Member (J)

(Shree Bhagwan,)
Member (A)

