

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.637/2017.

(S.B.)

Kanhu Motiram Bhakre,
Aged about 39 years,
Occ-Agriculturist,
R/o Jungaon, Tehsil-Pombhurna,
Distt. Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Additional District Collector,
Civil Lines, Chandrapur.
3. The Sub-Divisional Officer,
Gondpipri, District-, Chandrapur.
4. The Tehsildar, Pombhurna,
Tehsil Pombhurna, Dist. Chandrapur.
5. Sou. Rozan Tejpal Rangari,
Aged about major,
Occ-Household,
R/o Jungaon, Tehsil-Pombhurna,
Distt. Chandrapur.

Respondents

Shri H.N. Potbhare , the Ld. Advocate for the applicant.
Shri A.M. Khadatkhar, the Ld. P.O. for respondent Nos. 1 to 4.
None appeared for respondent No.5.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 19th day of July 2018.)

Heard Shri H.N. Potbhare, the learned counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for respondent Nos. 1 to 4. None appeared for respondent No.5.

2. In response to the Proclamation issued by respondent No.1 dated 1.6.2015, the applicant applied for the post of Police Patil of village Jungaon, Tehsil-Pombhurna, District Chandrapur. The post was reserved for Special Backward Class {SBC} (Female). As per advertisement, it was specifically mentioned that if a candidate from special reserved category i.e. SBC was not available, then the candidate from Open category or other caste will be considered. It was also mentioned that in case the candidate for the post reserved for Female category was not available, then said post will be filled in from Male candidate of the same category.

3. According to the applicant, he appeared for the examination and his name appeared in the select list. The respondent No.3 issued the appointment order in his favour on 5.9.2015.

4. The respondent No.5 also applied for the said post, but her application was rejected, since she was not qualified.

However, she made a complaint against the applicant. The respondent No.2 also received a complaint in respect of selection process of Police Patil and, therefore, enquiry was conducted. After the said enquiry, communication dated 20.6.2017 was issued to the applicant. The applicant replied the said communication. However, without any right and authority and without making proper enquiry, the respondent No.3 reviewed the order of appointment of the applicant and cancelled the appointment order vide letter dated 7.8.2017. The said letter is impugned in this O.A. The applicant has claimed that the impugned communication whereby his appointment order to the post of Police Patil of village Jungaon has been cancelled by respondent No.3, be quashed and set aside and the applicant be allowed to work as Police Patil of village Jungaon.

5. In reply affidavit, it is stated that as per advertisement, it was necessary for the candidates to attach necessary documents mentioned in the advertisement. The applicant, however, did not attach character certificate from the Police Station, so also the certificate of having children. It is further stated that, the post of village Jungaon was reserved for SBC (Female). The applicant belongs to OBC category.

6. The respondents also referred to the G.R. dated 16.10.2008 which gives three categories to fill up the post, if the candidate of that category is not available. In these categories, SBC category is not mentioned. The applicant neither belongs to SBC category nor he has mentioned in the application form that he was filling the form from Open category. As already stated, no character certificate from the Police Station and small family certificate was attached and, therefore, the applicant's appointment was cancelled.

7. The applicant has filed additional affidavit and submitted that he has annexed requisite documents alongwith the application. In the affidavit, it is stated that the applicant has obtained character certificate prior to issuance of advertisement dated 24.7.2015.

8. So far as defence taken in reply affidavit that the applicant cannot be considered, since he has not applied from Open category and since he does not belong to SBC category is concerned, it is material to note that the said issue may not be relevant, since the application has not been rejected on that ground.

The application has been rejected on the following grounds:-

“तथापि प्रकरणात सखोल चौकशी केली असता अर्ज विहित मुदतीमध्ये प्राप्त झाला म्हणून श्री.कान्हू मोतीराम भाकरे यांना पात्र ठरविण्यात आलेल्या अर्जाची छाननी न करता सरसकट पात्र

ठरविण्यात आल्याचे दिसून येते. श्री.कान्हू मोतीराम भाकरे यांचे अर्जाची छाननी केली असता जाहीर सूचनेत प्रसिद्ध केल्याप्रमाणे पोलीस स्टेशन अधिकाऱ्यांकडील चारित्र्याबाबत प्रमाणपत्र, दोन पेक्षा जास्त अपत्य नसल्याबाबत विहित नमुन्यात प्रतिज्ञापत्र अर्जासोबत जोडलेले नाही. तसेच पोलीस पाटील भरती करिता विहित करण्यात आलेल्या नमुन्यातील अर्ज परिपूर्णरीत्या भरलेला असल्याचे आढळून येत नाही. सदर बाबीचा विचार करता अर्जदार श्री. कान्हू मोतीराम भाकरे यांचे अर्जाची छाननी केली असती तर ते अर्जाचे छाननीत अपात्र ठरले असते."

9. The copy of Proclamation is at page Nos. 19 & 20 (Annexure A-5) and the typed copy is at page No.20 A,B,C (both inclusive). The said Proclamation has been issued on 1.6.2015 and not on 20.5.2017 as stated in the reply affidavit. The Proclamation query states that the applications were to be filled in on or before 16.6.2015 and it was specifically mentioned that alongwith the application, all the documents regarding qualification and certificate from competent authority duly verified and attested shall be filed and no original documents shall be annexed. It was also stated that, the candidates will have to bring original documents at the time of interview.

10. Perusal of the impugned order clearly shows that the applicant alongwith his application form did not submit character certificate from the concerned Police Station, so also small family

certificate duly attested. The applicant himself has placed on record one character certificate issued by the Police Inspector for Superintendent of Police, Chandrapur at page No.34, from which it seems that the applicant applied for such certificate vide letter dated 25.6.2015 and the certificate was issued on 24.7.2015.

11. The applicant has placed on record small family certificate. Its copy is at page No.29 and typed copy is at page No. 29-A. The said certificate is not legible and no date is mentioned on the said certificate or whatever date mentioned in it, seems to be not legible and doubtful. The date of birth of applicant's child is also vague.

12. The respondents have placed on record a copy of application form of the applicant for the post of Police Patil and the same is at page No.61. The said form clearly shows that the character certificate from the Police Station Officer and the small family certificate showing that the applicant does not have more than two children, are missing. This supports the enquiry made by respondent No.3. As already stated, even in the additional affidavit dated 8.1.2018, the applicant has stated that he has applied for character certificate prior to issuance of Proclamation dated 24.7.2015. In fact, the Proclamation is dated 1.6.2015 and the

applicant has applied for certificate on 25.6.2015 and it was issued on 24.7.2015. Admittedly, last date for submissions of form was 16.6.2015. Thus, in my opinion; certificates were not attached with the application form. The Committee has, therefore, rightly taken a decision to review the appointment order in favour of the applicant. I, therefore, do not find any merits in the O.A. Hence, I proceed to pass the following order:-

ORDER

The O.A. stands dismissed with no order as to costs.

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

Dt. 19th July 2018.