

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.71/2015.

(S.B.)

Balwant Paikaji Kowe,
Aged about 30 years,
R/o At- Karanwadi, Post-Nawargaon,
Tehsil-Maregaon,
District- Yavatmal.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Revenue & Forests,
Mantralaya, Mumbai-32.
2. The Selection Committee,
Through Collector, Yavatmal.
3. The Tehsildar, Maregaon,
District- Yavatmal.
4. Ramprasad Mahadeo Deogadkar,
R/o At Post Maregaon,
Tq. Maregaon, District- Yavatmal.

Respondents

Shri M.V. Mohokar, the Ld. Advocate for the applicant.
Shri S.A. Sainis, the Ld. P.O. for the respondents 1 to 3.
None appeared for respondent No.4.

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

JUDGMENT

(Delivered on this 16th day of July 2018.)

Heard Shri M.V. Mohokar, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondent Nos. 1 to 3. None appeared for respondent No.4.

2. The applicant has claimed that the selection order dated 29.1.2015 for the post of Peon be quashed and set aside, being contrary to the G.R. dated 29.7.2001. He is also claiming declaration that the respondent No.2 be directed to declare the applicant as selected for the post of Peon and selection of respondent No.4 for the post be declared illegal and contrary to the G.R. dated 29.7.2001.

3. From the admitted facts on record, it seems that the applicant was appointed as Kotwal in place of his father on compassionate ground on 10.2.2005. The Government has issued a G.R. dated 29.7.2001, whereby the persons holding the post of Kotwal for particular years, can be selected for the post of Peon i.e. Class-IV post. The quota for such selection was earlier 10% which lateron extended to 25% as per G.R. dated 24.2.2012.

4. The respondent No.2 prepared a seniority list of Kotwals as on 1.1.2010 in which name of the applicant stands at Sr. No.22, whereas name of respondent No.4 stands at Sr. No.24. The

applicant and respondent No.4 participated in the process of selection and the select list of 33 candidates including the respondent No.4 was published on 29.1.2015. Since the applicant's name was not there in the list, though he is senior to respondent No.4, the applicant raised objection on 3.2.2015. But the said objection was not considered and, therefore, this application.

5. The respondent No.2 justified the selection of respondent No.4. It is stated that out of 33 posts of Peon, 11 posts were reserved for Open candidates, 9 posts were reserved for SC candidates, 9 posts were reserved for ST candidates, 2 posts were reserved for NT (B-2) candidates, 1 post was reserved for VJ (A) candidate, and 3 posts were reserved for OBC candidates. As per the G.R. dated 29.7.2001, a person who has served for five years as a Kotwal, was entitled to be considered for the post of Peon. Accordingly, the Selection Committee completed the process of selection and prepared a merit list. The respondent No.4 was found more meritorious than the applicant and, therefore, he was selected.

6. From the reply affidavit filed by the respondents, it seems that the objection raised by the applicant was duly replied by the respondent No.2 i.e. Collector, Yavatmal which is at Annexure A-2 at page No.44 of the O.A. In the said reply affidavit, it was

intimated to the applicant that the applicant has secured 64.20 marks from SC category, whereas the last candidate from SC category who was selected, got 65.60 marks, whereas the last candidate from Open category has secured 89 marks out of 100 and, therefore, the applicant could not be selected either from SC category or from Open category. So far as the respondent No.4 is concerned, he belongs to ST category and he secured 66 marks whereas the last candidate from ST category has secured 65.60 marks.

7. Perusal of the record shows that the respondents have placed on record the merit list of ST category as well as SC category and Open category candidates. From the said record, it seems that the applicant got only 64.20 marks under SC category whereas the last candidate who was selected from SC category has secured 66 marks.

8. The learned counsel for the applicant has invited my attention to para 7.6 and para 7.9 of the O.A., whereby it is stated that the candidates were only put the questions regarding their names, their educational qualifications and working years only and within a fraction of minutes, candidates were sent out from the interview hall and exorbitant marks were given to the selected candidates. It is also stated that 100 marks for the procedure were

divided into categories, such as 35 marks for eligibility, 10 marks for educational qualification, 3 marks for experience of more than five years and 10 marks for oral. But the marks were not given properly and in fact the applicant is entitled to 82 marks. This objection has been raised for the first time before this Tribunal and the process of selection was never objected on this count till final select list was published. I do not find it necessary to enter into the discretion of the Selection Committee as regards allotment of marks and the applicant has no *locus standi* to object for such procedure, once he has participated in the process and only after the select list was published.

9. From the facts discussion in foregoing paras, it will be crystal clear that the last candidate in the SC category secured 66 marks, whereas the applicant has secured only 64.20 marks. As against this, the candidate from Open category secured 82 marks. The applicant, therefore, neither could compete from the SC category candidate nor from Open category candidate and, therefore, he cannot claim selection on merits. It is stated that the select list was existed for one year only. The respondent No.4 seems to have been selected on his own merits and, therefore, I do not find any reason to

interfere in the process of selection. 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)
16.7.2018.