

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.796/2017. (S.B.)

Bandu Patru Gadde,
Aged about 46 years,
Occ- Service (Removed),
R/o at village Phurdi Heti,
Tq. Gondpipri Distt. Chandrapur.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Revenue and Forests,
Mantralaya, Mumbai-400 032.
- 2) The Collector, Chandrapur.
Near Bus Stand, Chandrapur.
- 3) The Sub-Divisional Officer,
Gondpipri Distt. Chandrapur.
- 4) Baban H. Nikode,
R/o Near Sneha Medical,
Gondpipri Distt. Chandrapur.

Respondents

Shri P.P. Kaware, the learned counsel for the applicant.

Shri V.A. Kulkarni, the learned P.O. for respondents.

Coram:- Shri Anand Karanjkar,
Member (J)

Dated:- 2nd May 2019

Date of reserving of judgment : 12th April 2019.

Date of pronouncement of judgment : 2nd May 2019.

Heard Shri P.P. Kaware, the learned counsel for the applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

2. The respondent No.3 published the advertisement on 1.6.2015 to fill the post of Police Patil of village Phurdi Heti, Tehsil Gondpipri, Distt. Chandrapur. The post was reserved for NT(C) (Woman) candidate. The applicant applied for the post. The applicant was belonging to NT(B) category and thereafter the applicant was appointed on the post vide order dated 5.9.2015.

3. Appointment of the applicant was challenged by respondent No.4 on the ground that, the post was reserved for NT(C) (woman) category. The applicant was not eligible to be appointed on that post, as the applicant was belonging to NT(B) category. Matter was referred and ultimately the S.D.O. Gondpipri vide order dated 14.8.2017, it is held that the applicant was not eligible to be appointed on the post and consequently the S.D.O.set aside the order.

4. The applicant is attacking this order on the ground that no female candidate of NT(C) category or male candidate of

NT(C) category applied for the post, therefore, he was appointed. It is submitted that the S.D.O. Gondpipri, without examining the G.R. dated 16.10.2008 mechanically set aside the appointment and, therefore, the impugned order is liable to be set aside.

5. I have gone through the G.R. dated 16.10.2008. Material clause (F) and (G) are very much material which are as under:-

“(फ)- वरीलप्रमाणे पदे ठरविण्यात आल्यानंतर त्या प्रवर्गाचा उमेदवार उपलब्ध न झाल्यास खालीलप्रमाणे प्रवर्गाचे ३ गट करून त्या गटातील प्रवर्गातील उमेदवारांमधून अदलाबदलीने पदे भरण्यात यावीत.

(१) अनुसूचित जाती व अनुसूचित जमाती

(२) विमुक्त जाती (अ) व भटक्या जमाती (ब)

(३) भटक्या जमाती (क), भटक्या जमाती (ड) व इतर मागार्वागीय.

वरीलप्रमाणे गटातीलही उमेदवार उपलब्ध न झाल्यास ते पद खुल्या प्रवर्गातून भरण्यात यावे.

(ग) महिलासाठी आरक्षित ठेवण्यात आलेल्या पदांसाठी त्या प्रवर्गातील महिला उपलब्ध न झाल्यास ते पद त्या प्रवर्गातील पुरुष उमेदवारांमधून भरण्यात येईल.”

6. In clause (F), direction was given that if a candidate of particular category is not available, then that category be divided in three groups and the post be filled by appointing a person in that group. As per clause (F), three groups were created. First group was

SC and ST, second group was VJ(A) and NT(B) and third group was NT(C), NT (B) and OBC. The note in Clause (F) was that if no candidate in the group is available, then the candidate of Open category be appointed. In clause (G), it is mentioned that if female candidate is not available, when post is reserved for Woman, the post shall be filled in by appointing a male of same category.

7. It is contention of the Ld. P.O. that it was permissible to appoint a candidate as mentioned in the same group and if a candidate is not available mentioned in the group, then post would go to Open category candidate. After plain reading of this Clause (F), it seems that the category was divided in three groups and as per the language of Clause (F), in case of non availability of candidate in other category in that group, be appointed. Admittedly, the applicant was in Group-2 being NT (B) and post was reserved for NT(C) and it was in Group-3. Therefore, the appointing authority was empowered either to appoint NT (B) candidate or OBC candidate and in the event that no candidate mentioned in the group would available, the post be filled in by appointing Open candidate. In my opinion, the learned SDO, Gondpipri rightly held that it was not permissible to appoint the applicant, as he was not covered in Group-3 and specific provision is made in Clause (G) when the post is

reserved for woman candidate, such post was directed to be filled only by appointing a male candidate of the same category. The post was reserved for NT(C) category and, therefore, only option was available to appoint a male candidate of NT(C). In view of this, I do not see any merit in the submission of the applicant that the impugned order passed by the S.D.O. Gondpipri is contrary to law. In the result, I proceed to pass the following order:-

ORDER

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

(Anand Karanjkar)
Member (J)
2.5.2019.

