

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 839 of 2017 (SB)

Vishnudas S/o Pandurang Mangare,
Aged about 36 years, Occ. Farmer,
R/o at post Gondeda, Tq. Chimur,
District : Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary, Home Department,
World Trade Center, Cuff Parade, Mumbai-05.
- 2) The Sub Divisional Officer,
Chimur, Administrative Building,
Chimur, District Chandrapur.
- 3) Avinash S/o Shankar Bavane,
Aged about 33 years, Occ. Labour,
R/o at Post Gondeda, Tq. Chimur,
District Chandrapur.

Respondents

S/Shri B.W. Patil, A.R. Manhare, Advocates for the applicant.
Shri A.P. Potnis, learned P.O. for respondent nos. 1 and 2.
Shri R.P. Ambarwele, learned Advocate for respondent
no.3.

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

JUDGMENT

(Delivered on this 17th day of July,2018)

Heard Shri B.W. Patil, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for respondent nos. 1&2. None for respondent no.3.

2. The applicant and respondent no.3 along with some other candidates participated in the process of recruitment for the post of Police Patil of village Gondeda, Tq. Chimur, District Chandrapur. As per the advertisement instruction no.7 it was stated that “vtñkjks iwl pkjh= pkxys vIY; kckcr I cdkhr ikyhl LVškups iæk.ki = tkM.ks vfuok; l vkgš”. Another instruction regarding submission of documents, it was stated in the general instructions clause no.7 as under :-

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3. A list was published by the respondent no.2, i.e., the Sub Divisional Officer, Chimur as per Annex-A-6 regarding the candidates who are declared unfit for various reasons. The various candidates such as at sr.nos. 21,34,42,43 and 71 were declared unfit and not eligible for appearing for the examination since they did not submit character certificate from the Police Station. It is stated that even though the respondent no.3 did not submit the character certificate as required, he was appointed as Police Patil. The applicant has therefore prayed for a declaration that acceptance of application of respondent no.3 for the post of Police Patil shall be held illegal and it shall also be held that the respondent no.3 was not eligible for the post. It is further claimed that the appointment order of respondent no.3 for the post of Police Patill of village Gondeda be declared illegal.

4. The respondent no.2, i.e., the SDO, Chimur admitted that the respondent no.3 has submitted character certificate on 30/03/2016 after his appointment. It is stated that respondent no.3 has secured higher marks, i.e., 43 in the written and 14 in the oral, i.e., total 57 out of 100 marks, whereas, the applicant has secured 39 in written and 11 in the oral. Thus total 50 marks out of 100 marks and therefore being

meritorious candidate, the respondent no.3 was selected. It seems that the reply-affidavit is silent about the points on which the objection has been taken for the acceptance of application form of respondent no.3.

5. The respondent no.3 has also filed reply-affidavit and submitted that the application is filed one year and six months after the appointment order of respondent no.3 and that no representation was made before filing the O.A. It is however admitted that the applicant applied for character certificate on 12/2/2016 but it was issued on 18/2/2018.

6. From the admitted facts on record, it is clear that the respondent no.3 has not supplied the character certificate, as required, on the date of filing of application. The instruction no.7 has already stated clearly shows that the character certificate from the concerned Police Station must be attached along with the application form and general condition no.7, as already stated, also makes it clear that if the applications are not annexed with requisite certificate / documents, such candidates will be held not eligible for participating in the process.

7. From the list of candidates who are declared unfit on account of various reasons, i.e., at Annex-A-6 at P.B. page

nos.18 to 20 (both inclusive). It is clear that applications of number of candidates have been rejected only on the ground that they have not submitted character certificate from the concerned Police Station and therefore in such circumstances there is no reason as to why the respondent no.3 was allowed to participate in the process even though he has not attached the character certificate along with application form.

8. The learned counsel for the applicant has placed reliance on the Judgment delivered by this Tribunal at Nagpur Bench in O.A.789/2016 on 10/08/2017. In the said case the applicant's application for the post of Police Patil was rejected on the ground that his application form did not bear the requisite character certificate from the concerned Police Station, which was mandatory condition. This rejection was challenged by the then applicant, but this Tribunal was pleased to declare the action of respondent no.2 cancelling the appointment order of the then applicant as legal and proper and the application was dismissed. The case of the applicant is squarely covered as per the pronouncement in O.A.789/2016. The respondent no.2 should have rejected the application of respondent no.3 for not submitted requisite document, i.e., character certificate from the concerned Police

Station as has been rejected in respect of number of candidates as per Annex-A-6 excepting the application of respondent no.3 and allowing him to participate in the process of recruitment was therefore arbitrary, discriminatory and against the principles of natural justice. In view thereof, I pass the following order :-

ORDER

The O.A. is allowed in terms of prayer clause 8 (i) and (ii). The appointment order of respondent no.3 as a Police Patil of village Gandeda, Tq. Chimur, District Chandrapur stands quashed and set aside. The respondent no.2 will at liberty to re-consider the process of appointment to the post of Police Patil of village Gandeda as per its own merits on the basis of marks obtained by various eligible candidates for the said post in the written and oral examination other than the respondent no.3. No order as to costs.

Dated :- 17/07/2018.

dnk.

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