

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.636 OF 2018

DISTRICT: PUNE
SUBJECT: POLICE PATIL APPOINTMENT

Babaji Nanabhau Gadage,)
Age – 43 years, Occupation – Agriculturist.)
At/Post – Davadi, Tal. Khed, Dist : Pune – 411 033.) ... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Principal Secretary,)
Home Department, Mantralaya, Mumbai.)
- 2) The Collector,)
District Pune, Vidhan Bhavan, First Floor, Pune-01.)
- 3) Sub-Divisional Officer, Khed,)
Wada Road, Khed (Rajgurunagar),)
Tal. Khed, Dist. Pune.)
- 4) Atmaram Bhausahab Dumare,)
Age. Adult, Occupation: Agriculturist,)
At. Post-Dhavadi, Tal. Khed, Dist. Pune.) ... **Respondents**

Shri S.M. Katkar, learned Advocate for the Applicant.

Smt. Archana B.K., learned Presenting Officer for the Respondents.

Smt. P.B. Walimbe, learned Advocate for the Respondent No.4.

CORAM : Shri A.P. Kurhekar, Hon'ble Member (J)

DATE : 06.04.2021.

JUDGMENT

1. The Applicant has challenged order dated 18.01.2018, whereby Respondent No.3 – Sub-Divisional Officer (S.D.O.), had appointed Respondent No.4 – Atmaram B. Dumare as Police Patil of Village-Davadi, Taluka-Khed, District-Pune, invoking jurisdiction of this Tribunal under section 19 of the Administrative Tribunal Act, 1985.

2. Shortly stated facts giving rise to this application are as under:-

The Applicant Shri Babaji Nanabhau Gadage and Respondent No.4 - Atmaram B. Dumare are residents of Village-Davadi, Taluka-Khed, District-Pune. Respondent No.3 – S.D.O., Khed had issued notification dated 08.06.2017 to fill-in the post of Police Patil of Village-Davadi among other villages and invited application from the interested candidates. Accordingly, Applicant as well as Respondent No.4 and Sulabha Ganesh Kale had applied for the post of Police Patil. Accordingly, Respondent No.3 – S.D.O, conducted written examination and had taken oral interview of the candidates, 80 marks were allotted for written examination and 20 marks were allotted for oral, including marks for additional qualification i.e. Sports activity, Computer experience etc. In final analysis Sulabha G. Kale and Applicant got total 79 marks each out of 100 marks, whereas Respondent No.4 got 78 marks. The result was accordingly published. Respondent No.4 immediately brought to the notice of S.D.O that he was given one mark less. S.D.O. gave hearing to the parties. In so far as Sulabha G. Kale is concerned, she was found not resident of Village-Davadi and therefore her candidature was rejected by order dated 18.01.2018 leaving behind candidature of the Applicant and Respondent No.4. After giving hearing to the parties of S.D.O realized that one mark less was given

to Respondent No.4. He therefore added one more mark in view of Sports certificate which was not considered earlier. Resultantly the Applicant as well as Respondent No.4 both got equal marks i.e. 79 marks. In view of equal marks to both candidates, Respondent No.3 – S.D.O. appointed Respondent No.4, since he was more qualified in terms of clause 5 (2) of G.R. dated 22.08.2014. Accordingly, Respondent No.3 – S.D.O. issued appointment order in favour of the Respondent No.4 which is challenged by the Applicant in present O.A.

3. Heard Shri S.M. Katkar, learned Advocate for the Applicant, Smt. Archana B.K., learned Presenting Officer for the Respondents No.1 to 3 and Smt. P.B. Walimbe, learned Advocate for the Respondent No.4.

4. In the beginning itself, learned Advocate for the Applicant seeks to delete prayer Clause 21 (c) of O.A. whereby, declaration was sought that Clause 5 (2) of G.R. dated 2014 is ultra-virus. He fairly submits that he is not pressing the said relief and only challenging the appointment order dated 18.01.2018 in favour of Respondent No.4.

5. Since, the Applicant has deleted prayer Clause para. 21 (c), simple question remains whether the appointment of Respondent No.4 is legal and valid.

6. As stated above, initially the Applicant was given 79 marks, whereas the Respondent No.4 was given 78 marks, however Respondent No.4 immediately approached S.D.O. that he was not given one mark for Sports certificate accordingly S.D.O. took hearing and gave one mark for Sports

activity as a result of which the Applicant as well as Respondent No.4 were on the same page having got 79 marks.

7. Respondent No.3 – S.D.O. has filed Affidavit explaining how one mark was added to the marks given to Respondent No.4, since initially one mark was left to be given to Sports activity. Respondent No.4 has also tendered certificate of Sports activity which qualified for one mark as per notification.

8. Respondent No.3 – S.D.O. then proceeded to issue appointment order in terms of G.R. dated 22.08.2014 which *inter-alia* provides that where both candidates got equal marks how selection is to be made. Para.5 of G.R. dated 22.08.2014 is material which is as follows

“५. उमेदवारास समान गुण मिळाल्यास.

गुणवत्ता यादीमधील दोन किंवा त्यापेक्षा अधिक उमेदवार समान गुण धारण करीत असतील, तर अशा उमेदवारांचा गुणवत्ता क्रम खालील निकाषांवर क्रमवार लावला जाईल:-

१. पेलीस पाटलांचे वारस, त्यानंतर
२. अर्ज सादर करावयाच्या अंतिम दिनांकास उच्च शैक्षणिक अर्हता धारण करणारे उमेदवार ; त्यानंतर
३. माजी सौनिक असलेले उमेदवार ; त्यानंतर
४. वयाने ज्येष्ठ उमेदवार”

9. Thus, by G.R. dated 22.08.2014 preferential order is maintained for appointment of Police Patil, where all candidates secured equal marks. As per item 1 of clause 5 preference to be given to the heir of Police Patil and thereafter preference needs to be given to the candidate holding higher qualifications. In the present case Applicant as well as Respondent No.4

are not heir of Police Patil, and therefore, appointment was made on the basis of higher education. Admittedly, the Applicant is a Diploma holder, whereas the Respondent No.4 is Graduate. The Respondent No.3 – S.D.O. has specifically noted the same during the course of hearing given to the parties and having found Respondent No.4 more qualified than the Applicant, he issued appointment order dated 18.01.2018 in favour of the Respondent No.4.

10. As such, Respondent No.3 – S.D.O. has rightly considered eligibility as well as Higher qualification of Respondent No.4 in terms of G.R. dated 22.08.2014 and appointed Respondent No.4 to the post of Police Patil of Village-Davadi. I see no illegality in the selection of the Respondent No.4.

11. Learned Advocate for the Applicant also could not found out anything substantial to question the selection of Respondent No.4 of which is done in terms of G.R. dated 22.08.2014 as well as marks obtained by the Respondent No.4. Suffice to say, challenge to the impugned order holds no water and O.A. deserves to be dismissed.

12. O.A. is dismissed, with no order as to costs.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 06.04.2021
Dictation taken by: N.M. Naik.