

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 373 of 2015 (S.B.)

Shri Dada S/o Kashinath Bhusari,
Aged about 45 years, Occ. Service,
R/o Chalbardi, Tq. Bhadrawati, Dist. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
Revenue Department through its Secretary,
Mantralaya, Mumbai-32.
- 2) The Collector, Chandrapur,
Dist. Chandrapur.
- 3) Tahsildar,
Bhadrawati, Dist. Chandrapur.
- 4) Shri N.G. Ganvir,
C/o Tehsil Office, Saoli,
Dist. Chandrapur.
- 5) Shri K.T. Ramteke,
C/o Tehsil Office, Chandrapur.
- 6) Shri D.B. Fulzele,
C/o Tehsil Office, Bramhapuri,
Dist. Chandrapur.
- 7) Shri P.M. Bankar,
C/o Tehsil Office, Mul,
Dist. Chandrapur.

Respondents

Shri S.O. Ahemad, A.D. Mange, Advocates for the applicant.

Shri H.K. Pande, learned P.O. for respondent nos.1 to 3.

None for respondent nos. 4 to 7.

WITH

ORIGINAL APPLICATION NO. 374 of 2015 (S.B.)

Shri Dilip S/o Gunaram Channe,
Aged 38 years, Occ. Service,
R/o at post Pedgaon, Tq. Sindewahi,
Dist. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
Revenue Department through its Secretary,
Mantralaya, Mumbai-32.
- 2) The Collector, Chandrapur,
Dist. Chandrapur.
- 3) Tahsildar,
Sindewahi, Dist. Chandrapur.
- 4) Shri R.N.Donge,
C/o Tehsil Office, Rajura,
Dist. Chandrapur.
- 5) Shri P.R. Mandavkar,
C/o District Supply Office, Dist., Chandrapur.

Respondents

Shri S.O. Ahemad, A.D. Mange, Advocates for the applicant.

Shri H.K. Pande, learned P.O. for respondent nos.1 to 3.

None for respondent no.4.

Shri L.R. Mandaokar, G.G. Bade, learned Advocate for resp.no.5.

WITH

ORIGINAL APPLICATION NO. 375 of 2015 (S.B.)

Shri Chatrapati S/o Kapurda Vyahadkar,
Aged about 28 years, Occ. Service,

R/o Babrala, Post Babrala,
Tq. Mul, Dist. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
Revenue Department through its Secretary,
Mantralaya, Mumbai-32.
- 2) The Collector, Chandrapur,
Dist. Chandrapur.
- 3) Tahsildar,
Mul, Dist. Chandrapur.
- 4) Shri N.G. Ganvir,
C/o Tehsil Office, Saoli,
Dist. Chandrapur.
- 5) Shri K.T. Ramteke,
C/o Tehsil Office, Chandrapur..

Respondents

Shri S.O. Ahemad, A.D. Mange, Advocates for the applicant.

Shri H.K. Pande, learned P.O. for respondent nos.1 to 3.

None for respondent nos. 4 and 5.

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

COMMON JUDGMENT

(Delivered on this 26th day of March,2018)

Heard Shri S.O. Ahmed, learned counsel for the applicants
and Shri H.K. Pande, Id. P.O. and other Id. P.Os. for respondent nos.1

to 3 and Shri G.G.Bade, Id. counsel for R-5 (in O.A.374/2015). None for remaining respondents.

2. The applicants in these O.As. are claiming that impugned final selection list dated 15/03/2015 issued by respondent no.2 and the order of appointments of private respondents for the posts of Peon may kindly be quashed and set aside and the applicants' name be mentioned in the final selection list and they be appointed on the Class-IV posts from the date of appointment of rest of candidates, i.e., private respondents.

3. The applicant in O.A.no. 373 of 2015, Dada Kashinath Bhusari has scored 53.50 marks as against the respondents in the said O.A. i.e. N.G. Ganvir who scored 64.50 marks, K.T. Ramteke who scored 63.50 marks and D.B. Fulzele who scored 65 marks.

4. The applicant in O.A. no. 374 of 2015 Shri Dilip Gunaram Channe has scored 60 marks as against the private respondents Shri R.N. Donge who scored 62.50 marks and P.R. Mandawkar who scored 63.50 marks.

5. The applicant in O.A. no. 375 of 2015 Shri Chatrapati Kapurdas Vyahadkar has scored 62 marks as against Shri N.G. Ganvir who scored 63.50 marks and U.K. Ramteke who scored 57 marks.

6. All the applicants have relied on G.R. dated 22/03/2001 (Annex-II) and particularly sub clause d of clause-III. The said clause-III states about the marks to be allotted to the candidates who are under zone of consideration for the class-IV posts on the cadre of Kotwal. The said clause is reproduced herein below for the purposes of convenience :-

3- R; kurj fdrh i nsHkjko; kph vkgr gsfuf'pr d#u 1% ; k i ek.kkr fopkj {ks=kr ; skk& ; k menokjkph ; knh r; kj djkoh- (zone of consideration) dksrokykauk ox&4 P; k i nkoj i nklurh nsrkauk ox&4 P; k eatij i nkph l q; k y{tkr ?kou i ek.k (percentage) fuf'pr dj.; kr ; kos

kurj ts dksroky fopkj {ks=kr ; r vl rhy R; kauh ; knh r; kj d#u ox&4 P; k i nkojhy fu; Drl kBh i qhyiek.ks 100 xqkka dh xqk nou i qhy eqns fopkjkr ?kou xqkoRruq kj ox&4 l kBh fuom dj.; kr ; koh-

- v- fopkj {ks=kr ; skkjsmenokj & 35 xqk
- c- 'kqf.kd vgrk], l , l l ho vf/kd & 10 xqk
- d- i kp o"kkbjhy l ok i R; d o"kkp; k l ddfjrk & 3 xqk
- M- ekf[kd 0; fDreRo pkr.kh & 10 xqk

¼; ke/; sdkskr; kgh menokjkl 3 i shk deho vkB

i shk tkLr xqk ns; kr ; ouu; s½

ojhyiek.ks xqkkupdes menokjkph ; knh r; kj d#u R; kauk ox&4 P; k i nkoj fu; Drl ns; kr ; koh- egl ny foHkkxkar xR vl .kk& ; k ox&4 ¼xV&M½ P; k fdeku oruJskhr i Eke fu; DrlP; k i nka dh fu; fer i nke/kou 10 VDdsi nsjk[kho Bb.; kr ; kohr-**

7. The applicants are mainly hampering on sub clause d of clause-III which states that 3 marks shall be allotted for experience of

each year after completion of 5 years' service as Kotwal. According to the respondents, the selected candidates were not properly allotted marks for the experience. When the applicants obtained information about the marks allotted to the private respondents and applicants, less marks were given, but subsequently the said marks were increased in respect of private respondents and therefore the selection of private respondents to the post of Kotwal is illegal. According to the applicants, the G.R. dated 19/07/2001 clearly shows that 10% of the posts were to be reserved for the candidates who were occupying the posts of Kotwal.

8. In O.A.no. 373 of 2015 the respondent no.2 i.e. the Collector, Chandrapur has filed affidavit and submitted that the respondent nos.4,5 & 7 in the said O.A. were appointed on 28/04/2005, whereas, the respondent no.6 was appointed 27/04/2005 as against the applicant's appointment to the post of Kotwal on 24/10/2005. The respondent nos. 4 to 7 were therefore senior to the applicant and since they have secured more marks than the applicant, they have been appointed. It is also stated that the seniority number of the applicant in the gradation list of Kotwal is 178, whereas, that of respondent nos. 4 to 7 is at sr.nos.140,145,131 and 136 respectively. The said seniority list is also placed on record at Annex-R-I. The respondents have also given the marks obtained by the applicants

and the respondents and as per that information the applicant got 53.50 marks, whereas, the respondent nos. 4 to 7 have scored 64.50 marks, 63.50 marks, 65 marks & 65 marks respectively.

9. In O.A.no. 375 of 2015 the respondent no.2, the Collector, Chandrapur in his affidavit-reply have stated that the applicant Shri Vyahadkar was appointed on 13/06/2005 as Kotwal, whereas, the respondent nos. 4&5 have been appointed on 28/04/2005 i.e. prior to the applicant. In the seniority list the applicant's stand at 148 and respondent nos. 4&5 are at sr.nos. 140 & 145 respectively. The applicant got 62 marks, whereas, the respondent nos. 4&5 got 64.50 marks and 63.50 marks respectively.

10. In O.A. no. 374 of 2015 it is stated by the respondent no.2 in the reply-affidavit that the applicant has scored 60.50 marks, whereas, the respondent nos. 3&4 have scored 62.50 marks each. The applicant was appointed to the post of Kotwal on 15/06/2005, whereas, the respondent nos. 3&4 were appointed on the said post on 25/04/2005 and 28/04/2005 respectively. The applicant's stand at sr.no. 164 in the seniority list of Kotwal, whereas, the respondent no.3 is at sr.no.127 and respondent no.4 is at sr.no.137. Thus the respondents are senior to the applicant.

11. The learned counsel for the applicants submits that when the applicants applied for the list of selected candidates and as regards marks obtained by them, they have received the information from which it seems that earlier the respondents were granted less marks considering their experience, whereas, in the final select list their marks have been increased. The respondent no.2 has dealt with this aspect in the reply-affidavit. It is stated that the information under RTI Act was given wrongly prior to finalization of selection list. In fact, the process of selection was under consideration and was not complete and therefore the same should not have been given prior to completion. The learned counsel for the applicant submits that the applicant has completed 9 years of service as a Kotwal. However his experience has been wrongly counted as 8 years, whereas, all the private respondents have been shown to have experience of 9 years each and therefore there was wrong calculation. I have perused the entire statement in defence given by respondent no.2 as well as the final list of merit and other documents. I have also considered the date of appointment of the respective applicants as well as respondents. Admittedly, all the applicants have obtained less marks in the examination than the private respondents. Whether the experience of 8 years or 9 years is counted are taken into consideration loses its important in these cases as admittedly all the applicants are juniors to

the respective private respondents in the O.As. In the seniority list also the applicants stand at lower number than their respective contesting private respondents. In such circumstances, even if the experience is counted, the respondents have received more marks than the respective applicants. The experience of the private respondents in all the O.As. is definitely more than that of respective applicants in the O.As. as a Kotwal. In such circumstance, I do not find any illegality committed by the respondents. There is no reason to disbelieve the facts stated by the respondent Collector in the affidavit that earlier the list was supplied to the applicants even though the procedure for recruitment was under process. Considering all these aspects, I do not find any merits in the O.As. Hence, the following order :-

ORDER

The O.As. stand dismissed with no order as to costs.

Dated :- 26/03/2018.

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

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