

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 1415 OF 2023

DISTRICT : OSMANABAD

Shri Samadhan P. Itape,)
Add : Loni, Tal-Paranda,)
Dist-Osmanabad.) **...Applicant**

Versus

1. The State of Maharashtra)
Through Addl Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. The Director General of Police,)
M.S, Mumbai,)
Maharashtra Police Head)
Quarters, S.B.S Marg,)
Colaba, Mumbai 400 001.)
3. The Commandant,)
State Reserve Police Force,)
Group No.V, Daund,)
Tal-Daund, Dist-Pune 413 801) **...Respondents**

Smt Punam Mahajan, learned advocate for the Applicant.

Smt K.S Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)**

DATE : 09.02.2024

J U D G M E N T

1. The applicant prays that the Respondents be directed to issue the appointment order of the applicant to the post of Armed Police Constable in OBC category forthwith all consequential service benefits.

2. Learned counsel for the applicant has submitted that the applicant applied for appointment to the post of Armed Police Constable in OBC category. The applicant appeared for physical and written examination. Learned counsel for the applicant has further submitted that the Respondent No. 3 declared the final selection and waiting list by letter dated 10.8.2023. Learned counsel submits that the applicant is selected and kept on OBC waiting list No. 3 as Armed Police Constable in State Reserve Police Force. Learned counsel submitted that candidates Mr. Pratik A. Kuldharme, Mr. Amol P. Waghmare and Vaidbha B. Ghodekar are selected and mentioned in OBC category final select list. However, the said candidates did not join the service to the post of Armed Police Constable. Learned counsel further submits that as per the final select and waiting list declared by Respondent No. 3 dated 10.8.2023, the name of the applicant appears at Sr. No. 3. Learned counsel further submits that one Mr. Ram Laxman Jadhav, OBC, secured 176 marks and joined on 20.10.2023, Mr. Sagar N. Pandit, OBC, secured 176 marks and joined on 20.9.2023. Thus, now the applicant is entitled to be given appointed in OBC General from Graduate Part Time Category to the post of Armed Police Constable.

3. Mr. Sachin Dahale, Assistant Commandant, from the office of Respondent No. 3 is present. On query he informs that total 23 posts were reserved for OBC category and out of which 22 posts are filled up. Out of 22 posts, for General OBC 16 posts, Sports

category – 1 post, Project Affected Person – 1 post, Ex-Servicemen – 3 posts and Home Guard-1 post are reserved. One person from Part Time Graduate category was not found. Hence, that post remained vacant.

4. The Department wanted to fill up the post of a candidate O.B.C. Orphan from General category post. Hence, issued orders to Mr. Vaibhav Ghodekar, however he did not join and then one post from General OBC category fell vacant. On that post, the next candidate from OBC category Mr. Zanzad, who has secured 176 marks he is appointed and thus all the 16 posts of OBC General are filled up.

5. We are of the view that the Respondents have committed mistake in not filling up the vacant post of Part Time Graduate from OBC General Category, as no candidate in that category is available. In the advertisement to the reserved Part Time Graduate post, no candidate from this category in OBC was found and the post is not filled up. Thus, applying the reservation of Part Time Graduate being Horizontal Reservation, should not be carried forward as per G.R dated 19.9.2013. Thus, that post is to be filled up by the meritorious and eligible candidate from General OBC category.

6. We have perused the merit list and we came across one Mr. Ram Laxman Jadhav and Mr. Sagar Nandu Pandit who have secured 176 marks and the applicant has secured 175 marks. The candidates Mr. Pratik A. Kuldharne who have secured 178 marks and Mr. Amol P. Waghmare who secured 177 marks, both from OBC at Sr Nos 3 & 5 in the select list did not join the service. So the persons from the waiting list Mr. Ram Laxman Jadhav and Mr. Sagar N. Pandit who got 176 marks were appointed. Thus total 16 posts in General OBC are filled up. However the post of

Part Time Graduate is still vacant and that vacancy cannot be taken forward, hence, to be filled up from next meritorious candidate from General OBC waitlisted candidate. The Applicant admittedly has secured 175 marks, hence he is entitled for appointment on the vacant post of Part Time Graduate.

7. In view of the above, we pass the following order :-

O R D E R

- (A) The Original Application is allowed.
- (B) The applicant is to be given appointment against the Part Time Graduate category candidate within three weeks from the date of this order with all consequential service benefits.

(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 09.02.2024
Dictation taken by : A.K. Nair.