

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.145 OF 2020

Shri Niraj P. Chaudhari & 5 Ors.)...**Applicants**

Versus

The Director General and Inspector)
General of Police, Mumbai.)...**Respondents**

Mr. A.V. Bandiwadekar, Advocate for Applicants.

Mr. A.J. Chougule, Presenting Officer for Respondents.

**CORAM : SHRI P.N. DIXIT, VICE-CHAIRMAN (A)
SHRI A.P. KURHEKAR, MEMBER (J)**

DATE : 04.03.2021

PER : SHRI P.N. DIXIT, VICE-CHAIRMAN (A)

ORDER

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicants and Shri A.J. Chougule, learned P.O. for Respondent.

2. In this O.A, there are 6 Applicants. The first 5 viz. N.P. Chaudhari, D.S. Shinde, M.P. Khopde, A.U. Sharmale and A.L. Shinde did not pass the qualifying Hindi Examination. The Applicant No.6 - H.B. Adhikari did not pass the Examination in Marathi. The learned Advocate for the Applicant mentions that on 01.02.2021, the Respondent – DGP called for certain information in respect of Assistant Police Inspectors to be promoted as Police Inspectors. However, the names of these Applicants did not figure in the same. The learned Advocate for the Applicants apprehends that these have been omitted as these Applicants did not pass the requisite Examination in Hindi or Marathi neither they were exempted for the same.

3. The learned Advocate for the Applicants further refers to Notification by G.A.D, dated 30.12.1987. The relevant Para No.5 (Page No.56 of O.A), which learned Advocate relies reads as under :-

“A Government servant who fails to pass the examinations within the prescribed period shall, after the expiry of the said period, be liable to have his increments withheld unless he passes the examination or examinations, as the case may be, or is exempted from passing the same under the provisions of Rule 4.”

4. The learned Advocate for the Applicants also relies on G.R. No.1076-28, dated 10.06.1976 (Clause No.5), which states that the Government servant who do not pass the necessary examination within the prescribed period or till the age of 45, their increments shall be withheld unless they are exempted or till they pass the examination. The learned Advocate for the Applicants, therefore, presses for interim relief praying that the Applicants should be allowed to exercise their options for allotment of Divisional Cadre and keep six posts vacant in the rank of PIs. He also relies on the Judgment given by this Tribunal in O.A.No.405/2017, dated 23.11.2017. According to him, the ratio in same Judgment and the present is the same though facts are different.

5. The learned Advocate for the Applicants also mentions that in order dated 23.02.2021, the Officers who have been promoted as PI did not pass the language examination. He particularly mentions about following persons.

- (i) Viryani B. Kadam (Sr.No.114)
- (ii) S.H. Rejitwad (Sr.No.122)
- (iii) A.S. Chore (Sr.No.242)
- (iv) P.R. Adsure (Sr.No.322)

6. The learned Advocate further submits that the Applicants have made representations on 03.02.2021 and 05.02.2021 submitting that their names do not figure in the list of Officers, who are promoted as PIs, as they did not pass the necessary examination in Hindi or Marathi.

7. The learned Advocate submits that the copy of O.A. has been submitted on 16.02.2021. According to learned Advocate the representations have not been decided so far.

8. The Respondent is, therefore, directed to clarify the legal impediment, if any, in allowing the prayers made by the Applicants viz. they should be allowed to give the option of allotment to the Divisional Cadre.

9. The learned Advocate for the Applicant is directed to make the Prayer Clauses cryptic, as they are running into several pages and has become wordy.

10. The matter is adjourned to 12.03.2021 for hearing interim reply. The Respondent should provide copy of reply by 10.03.2021 to the learned Advocate of the Applicant.

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

Sd/-
(P.N. DIXIT)
VICE-CHAIRMAN (A)

SKW