

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**ORIGINAL APPLICATION NO.368 OF 2015
(SUBJECT : CONTINUATION IN SERVICE)**

DISTRICT: SATARA

Kum. Lalita Balkrishna Mane,)
R/o. At and Post Budh,)
Tal : Khatao, Dist. Satara) **.. Applicant**

Versus

1) The State of Maharashtra,)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 32.)

2) The Director of Sports and Youth Services)
M.S., Central Building, Pune Station,)
Pune.)

3) The Commissioner of Police,)
Desk – 9, (Lower Establishment),)
Head Quarter – 2, Greater Mumbai.)
Mumbai.) **..Respondents**

Shri R.M. Kolge, the learned Advocate for the Applicant.

Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN
SHRI P.N. DIXIT, MEMBER(A)

RESERVED ON : 11.01.2019.

PRONOUNCED ON : 22.01.2019.

PER : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

J U D G M E N T

1. Heard Shri R.M. Kolge, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

2. Heard both sides. Perused the record.
3. In the present Original Application, Applicant has challenged two orders namely 25.03.2015 and 18.06.2015, (copy whereof are at page 14, Exhibit-A and at page 62-A respectively of the paper book of O.A.).
4. Applicant has made following prayers :
 - “(a) by suitable order and direction of this tribunal be please to quash and set aside the impugned order dt.25/3/2015 issued by the respondent No.2, thereby Sports certificate issued by the AFI, New Delhi for the event of athletic has been Invalidated and further to direct the respondent No.3 to not to terminate the services of the Applicant and application be allowed accordingly.*
 - (b) by suitable order and direction of this tribunal be please hold and declare that the certificate issued by the Association Federation of India, New Delhi under the G.R. dt. 30th April 2005 under the atheletic events.*
 - (b1) by suitable order and direction of this Hon’ble Tribunal be pleased to quash and set aside the impugned order of dismissal dt. 18/6/15 issued by the respondent No.3, thereby terminated the applicant from the post of Police constable and further be directed to reinstate the applicant to the post of Police constable and application be allowed accordingly.”*

(Quoted from page 11 and 12 of the paper book of O.A.)
5. This Tribunal has to consider prayers (b) and (b-1).
6. Background of the case is summarized as follows :-
 - (a) Applicant had participated in 3rd National Inter District Athletic meet organized by the Athletics Federation of India at Haridwar (copy whereof is at page 19, Exhibit-E of the paper book of O.A.).
 - (b) Applicant claimed appointment to the post of Police Constable in the employment of Commissioner of Police, Mumbai, the Respondent No.3 in Sports Category.
 - (c) Scrutiny of Applicant’s Sports certificate was pending.
 - (d) Pending scrutiny of applicant’s sport certificate, she was appointed.
 - (e) Applicant’s Sports Certificate was scrutinized in due course and it has been invalidated by impugned order.
 - (f) The reasons due to which invalidation is done are disclosed in impugned order. Relevant paragraph of impugned order is quoted below for quick reference :-

“५. शासन निर्णय क्र.क्रीस्पर्धा - २१०८ / (प्र.क्र.४४०/०८) क्रियुसे-२, दि.२० सप्टेंबर २०१३. अन्वये क्रीडा प्रमाणपत्राची पडताळणी केली असता, सदर स्पर्धाचा ३० एप्रिल २००५ च्या शासन निर्णयात समावेश नाही व गृह विभागाच्या २००६ च्या शासन आदेशातही सदर स्पर्धाचा समावेश दिसत नाही. सबब अपात्र यास्तव श्रीमती ललीता बाळकृष्ण माने हे उमेदवार विहीत केलेली खेळविषयक अर्हता पूर्ण करित नाहीत.”

(Quoted from page 15 of the paper book of O.A.)

- (g) The text of Government decision dated 30.04.2005 which provides for eligibility is placed on record by the Applicant as Annexed N (colly) (copy whereof is at page 46). The relevant text is seen at page 48 and is quoted below for ready reference.

“क) गट-क व ड साठी अहेता

सदर पदांसाठी त्या त्या खेळांच्या वैयक्तिक अथवा साधिक क्रीडा स्पर्धांमध्ये किमान राज्य अजिंक्यपद स्पर्धांत प्रथम, दितीय व तृतीय स्थान प्राप्त करणारा किंवा सुवर्ण, रौप्य किंवा कांस्य पदक प्राप्त करणारा खेळाडू,

राज्य अजिंक्यपद स्पर्धा या सदर खेळांच्या महाराष्ट्र ऑलिम्पिक असोसिएशनशी संलग्न असलेल्या अधिकृत राज्य संघटनेने आयोजित केलेल्या असाव्यात अथवा महाराष्ट्र ऑलिम्पिक असोसिएशनने स्वतः आयोजित केलेल्या असाव्यात. किमान प्राविण्यापेक्षा उच्च स्तरावरील क्रीडा प्राविण्य मिळविणा-या उमेदवारास प्राधान्य असावे. वैयक्तिकरित्या किंवा आमंत्रित स्वरूपाच्या स्पर्धांमध्ये भाग घेतलेल्या खेळाडूंचा यासाठी विचार करता येणार नाही.

राष्ट्रीय छात्रसेनेमध्ये (NCC) अंडर ऑफिसरची रँक मिळवून राष्ट्रीय छात्रसेनेच्या राष्ट्रीय स्पर्धांमध्ये पदके प्राप्त केलेली व्यक्ती.”

(Quoted from page 48 of the paper book of O.A.)

- (h) Due to invalidation applicant's employment has been terminated.
- (i) In view that during pendency of the O.A. Applicant's Sports certificate was invalidated she has amended O.A. and challenge removal from service as well.

7. The grounds on which invalidation is challenged by the Applicant are averred in grounds (A), (E) and (H). These grounds are quoted below for ready reference :-

“(A) That from the perusal of the recruitment rules dt.16th May 2006 to the post of Police constable and the G.R. dt. 30th April 2005, it would be clear the event of athletics has been mentioned in the said G.R. and the recruitment rules. That as far as participation of the applicant in the event of athletics in 3rd national interdistrict Athletics meets, 2005 held in Haridwar which is never contemplated in the G.R. But its participation and organization of the same athletics events has got utmost importance in the present case.

(B) to (D)

(E) As far as rule 6(c) is concern the District in which she did belong to sportswomn in the Satara District amature atheletic association, Satara which is coalition with the connected with the Maharashtra State amature atheletic association, pune at the state level which is recognized sports association or federation for the competition at the state level. But the certificate itself issued at the national level by the Federation of India, who orgainised the games. Therefore the same is complied with the recruitment rule 6(c) for which also the identity card is issued by the AFI, New delhi on 13/11/2005.

(H) *The applicant states that in the light of the judgment and order dt. 1st September 2009 in O.A.No.58/2008 and O.A.No.566/2008 and 599/2008 delivered by the Aurangabad Bench, Aurangabad Rule 6(1)(C) of the recruitment rules to the post of Police constable, 2006 has been interpreted by the Aurangabad MAT in which it has been held that on the basis of the material on record before the Tribunal, Aurangabad MAT it would be clear that mere participation is important in the event mentioned in the rules. That the same judgement order passed in the aforesaid OAs came to be challenged before the High Court. That ultimately by an order dt.12/7/2010, the finding of the Hon'ble MAT, Aurangabad Bench came to be confirmed in the W.P.NO.479 of 2010, W.P.No.662/2010 and 3919 of 2010 by observing at para 4 that advertisement would clearly indicate that the representation of the university in the inter-university events has been held to be an event which would entitled the candidate who had represented the university to be considered for appointment. The advertisement enlists about the 28 events will be entitled for the appointment in the sports category. Hereto annexed and marked as Exhibit R(Colly) is the copy of the order dt. 1st Sept. 2009 passed by the Aurangabad Bench, MAT by common order which came to be confirmed by the High Court, Aurangabad Bench which came to be followed by the Tribunal in several O.A.s."*

(Quoted from page 8, 10, 10B of the paper book of O.A.)

8. The Original Application is opposed by Respondent No.3. However, main party to defend is the Respondent No.3. Respondent No.3 has answered crucial paragraphs by averment contained in paragraph Nos.(12), (16) and (19), text whereof is quoted below :-

"12. With reference to Ground para (A), I say that the contention of the Applicant is not correct. Because it is specified in Home Department in the Government order dated 16.5.2006 at Clause No.6(1)(B) Eligibility (i) as below :-

"Participation at International / National/ All India Inter University levels in any sports discipline listed below. Participation at National level will include School Nationals, Sub-Junior Nationals, (under-17 years) Junior Nationals (under-19 years), Youth Nationals, (under – 21 years) and Senior Nationals."

12.1 to 15

16. With reference to Ground para (E), I say that, this Respondent don't have any objection about issuance of certificate for her participation in 3rd National Inter District Athletic meet. But according to Recruitment Rules Sub Rule 6(B)(i) the tournament is which she has participated is not an authorized tournament. Therefore, she is not eligible to receive any benefit of 5% sports reservation.

17 & 18

19. With reference to Ground para (H), I say that Respondent No.2 says and submits that, all the references quoted by the Applicant in this Para are related with University Tournament and said tournaments are not applicable in the present case. The tournament is which the present Applicant has participated was not an authorized tournament. Therefore the Applicant is not eligible to receive any benefit of 5% sports reservation."

(Quoted from page 142, 144 to 146 of the paper book of O.A.)

9. The gist of the ground of objections raised by the State :
 “The tournament in which applicant has participated is not authorized tournament as contemplated by Government Resolution dated 30.04.2015 and Recruitment Rules.”

10. The tournament in which applicant has participated (copy where of is at Exhibit-E page 19) reads as follows :-

*“ATHLETICS FEDERATION OF INDIA
 PARTICIPATION CERTIFICATE*

Awarded to Lalita Mane son/daughter of Balkrishna representing Satara district of Maharashtra state Participated as an athlete in the 3rd National Inter District Athletics Meet.

Organised by : Athletics Federation of India at Haridwar from 13th to 15th November 2005. His/ Her Date of Birth as per our record is 2.02.91.

*Sd/-
 PRESIDENT
 (SURESH KALMADI)*

*Sd/-
 SECRETARY
 (Dr.LALIT K. BHANOT)*

Certificate is valid if the original Date of Birth Certificate matches with the Date of Birth mentioned on this Certificate.”

(Quoted from page 19, Exhibit E of the paper book of O.A.)

11. Crucial criteria of eligibility amongst other conditions as laid are done by Government through Government Resolution dated 30.04.2005 are condensed and are restated as follows :-

- (a) The claimant must have participated individually or as a Member of Team in a Sports event arranged by in association which is affiliated to Maharashtra Olympic Association or should have been organized by Maharashtra Olympic Association itself.
- (b) The claimant or team must have secured 1st or 2nd or 3rd position in the contest or should have secured Gold, Silver or Bronze medal.

12. Admittedly, Applicant does not comply with either of the tests laid done in the Government Resolution dated 30.04.2005 on that ground of which applicants' certificate has been invalidated. The tournament in which applicant had participated was not organized by Maharashtra Olympic Association or any Association affiliated to Maharashtra Olympic Association.

13. From the certificate (copy whereof is at Exhibit 'E' and texts whereof is quoted in foregoing paragraph 10), it is evident, and even after seeing from any angle, the event in which the Applicant has participated does not concur with the conditions laid down in Government Resolution which provides for 5% reservation for sports persons as laid down in Government Resolution dated 30.04.2005 (copy whereof is at Exhibit-N page 46) of which relevant text is quoted in foregoing paragraph 3(f) is essential.

14. In the result, applicant has failed to show that the impugned order of invalidation of applicant's sports certificate is contrary to declared policy or law. Hence, Original Application does not have any merit and is dismissed.

15. Parties are directed to bear own costs.

Sd/-

(P.N. Dixit)
Member(A)

Sd/-

(A.H. Joshi, J.)
Chairman

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