

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURABGABAD**

ORIGINAL APPLICATION NO.373 OF 2016

DISTRICT : PARBHANI

Shri Anant Kadaji Rankhambe.)
Age : 28 years, Occu.Nil,)
R/o. At Thadi Ukkadgaon, Post : Sonpeth,))
Tal.: Sonpeth, District Parbhani.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai.)

2. The Sub Divisional Magistrate.)
Pathri, District Parbhani.)

3. The Tahsildar, Sonpeth,)
District Parbhani.)

4. Shri Ranjit G. Bhandare.)
Age : 28 years, Occu.: Nil,)
R/o. At Thadi Ukkadgaon,)
Post : Sonpeth, Tal.: Sonpeth,)
District Parbhani.)

(Copy to be served on Chief)
Presenting Officer, MAT, Mumbai)
Bench at Aurangabad.)...**Respondents**

Mr. R.M. Jade holding for Mr. G.G. Suryawanshi, Advocate for the Applicant.

Mr. V.R. Bhumkar, Presenting Officer for Respondents 1 to 3.

Mr. V.H. Solunke, Advocate for Respondent No.4.

CORAM : SHRI B.P. PATIL (MEMBER-J)

Closed on : 06.04.2018

Pronounced on : 17.04.2018

J U D G M E N T

1. The Applicant has challenged the selection of the Respondent No.4 on the post of Police Patil of village Thadiukkadgaon, Taluka Sonpeth, District Parbhani and prayed to quash and set aside the same and also prayed to give directions to the Respondent No.2 to issue the appointment order in favour of the Applicant on the post of Police Patil of village Thadiukkadgaon.

2. The Applicant is the resident of Thadiukkadgaon, Tal. Sonkhed, District Parbhani. He has passed the H.S.C. examination.

3. On 21.12.2015, the Respondent No.2 issued Notification / Advertisement and thereby invited the

applications of the eligible candidates for the appointment on the post of Police Patil of different villages situated within its jurisdiction including village Thadiukkadgaon. In pursuance of the Advertisement dated 21.12.2015, the Applicant and other aspiring candidates filed their applications. The Applicant and other eligible candidates appeared for the written examination. Thereafter, the Applicant has been called for oral interview. The oral interview of the Applicant and the other candidates including the Respondent No.4 had been conducted by the Recruitment Committee headed by the Respondent No.2. After oral interview, they declared the result. The Applicant secured 71 marks in the written examination while the Respondent No.4 received 58 marks in the written examination. But the Respondent No.2 and the members of the Recruitment Committee has intentionally allotted less marks to the Applicant and more marks to the Respondent No.4 in the oral interview. In the oral interview, the Applicant secured 2.50 marks while the Respondent No.4 secured 17 marks. It is his contention that the Respondent No.2 and members of the Recruitment Committee acted mala fide while allotting the marks to the candidates who appeared for oral examination and consequently, the Applicant secured less marks in aggregate and the Respondent No.4 secured more marks than him. The Applicant received 73.50 marks in aggregate while the Respondent No.4 received 75 marks in aggregate, and therefore, the Respondent No.4 was declared as selected candidate.

4. It is contention of the Applicant that one of the candidate participated in the recruitment process viz. Suresh B. Shinde, resident of Hadgaon, Tal. Pathri, sought information from the Respondents as regards criteria applied while giving the marks in the oral interview. Accordingly, the information was supplied to him where it has been mentioned that the oral interview was conducted for 20 marks and it has been bifurcated under district heads i.e. (1) for education qualification i.e. HSC/Degree/Post Graduate 02,03,04 marks (2) for experience (Government / Semi Government) 02 marks, (3) for Sport/ cultural/ participation/ NSS/ NCC 02 marks and (4) for the competency of the post and for personality development 12 marks. It is contention of the Applicant that Rules does not permit dividation of the marks, and therefore, the procedure adopted by the Respondent No.2 while conducting the oral interview of the Applicant is illegal and against the guidelines, G.Rs. and Recruitment Rules of the Police Patil.

5. It is his further contention that on the basis of above said criteria, the Respondent No.4 got more marks than him, and therefore, the selection of Respondent No.4 on the post of Police Patil is illegal.

6. It is his contention that he is belonging to "Mahar Caste" which is a Scheduled Caste. The post of Police Patil of village Thadiukkadgaon was kept for Open category and he

applied from the Open category. He obtained the highest marks but he has been denied in the oral interview by the Respondents only because he belongs to Scheduled Caste. The act of the Respondents is discriminating, and therefore, he prayed to quash the order by which the Respondent No.4 has been declared as selected candidate for the appointment on the post of Police Patil of village Thadiukkadgaon by filing the present O.A.

7. The Respondent No.2 filed his Affidavit-in-reply and resisted the contention of the Applicant. It is his contention that the Applicant has not filed any representation / objection challenging the appointment of Respondent No.4 on the post of Police Patil of village Thadiukkadgaon as provided in the G.R. dated 07.09.1999. Therefore, the O.A. is not maintainable. It is his contention that the Applicant has not availed the alternate remedy available to him, and therefore, the OA is not maintainable and consequently, it is liable to be dismissed.

8. He has not disputed the fact that the Applicant and Respondent No.4 participated in the recruitment process and both appeared for the written examination as well as oral interview. He has not disputed the fact that, in written examination, the Applicant secured 71 marks and the Respondent No.4 secured 58 marks out of 80 marks. It is his contention that four meritorious candidates who secured highest marks in the written examination had been called for

oral interview. Their oral interview had been conducted by the Selection / Recruitment Committee. The members of Selection Committee had given marks to those candidates after considering their performances. The Applicant got 2.50 marks in the oral interview and Respondent No.4 secured 17 marks in oral interview out of 20 marks. After considering the marks secured by the Applicant and the Respondent No.4 in the written examination and oral examination, the merit list has been prepared. As per the merit list, the Respondent No.4 secured higher marks, and therefore, he was declared as selected candidate and accordingly, the Respondent No.4 issued the appointment order in favour of Respondent No.4 on 26.02.2016. The Respondent No.4 joined on the said post and he is working on the said post. The Applicant has not challenged the appointment order of Respondent No.4 before him or in the present O.A.

9. It is contention of the Respondent that the Selection Committee has not fixed any criteria for allocation of the marks under different heads to the candidates appeared for oral interview. The Committee considered the performances of the candidates appeared for the oral interview and allotted the marks according to their personal performances after following due procedure. There was no mala-fideneess on the part of the Respondents and members of the Committee while giving marks to the candidates appeared for the oral interview. After following due procedure, they selected the candidate who

secured highest marks in aggregate and accordingly, the Respondent No.4 was declared as selected candidate for the appointment on the post of Police Patil of village Thadiukkadgaon. It is his contention that there is no illegality in it, and therefore, prayed for rejection of O.A.

10. I have heard Mr. R.M. Joshi holding for Mr. G.G. Suryawanshi, learned Advocate for the Applicant, Mr. V.R. Bhumkar, learned Presenting Officer (P.O.) for Respondents 1 to 3 and Mr. V.H. Solunke, learned Advocate for Respondent No.4. I have perused the documents produced by both the parties.

11. Admittedly, the Respondent No.2 issued an advertisement / Notification No. 1/2015 on 21.12.2015 inviting the applications from the aspiring candidates for filling up the post of Police Patil at different villages situated within Pathri Division including the village Thadiukkadgaon. The Applicant, the Respondent No.4 and others filled the On-line applications. The Applicant, Respondent No.4 and other eligible candidates appeared for the written examination. The Applicant, the Respondent No.4 and others passed the written examination. The Respondent No.4 called meritorious candidate who secured highest marks in the written examination and oral interview. Admittedly, the Applicant secured 71 marks out of 80 marks in written examination while the Respondent No.4 secured 58 marks out of 80 marks. Admittedly, the oral interview of the

Applicant and the Respondent No.4 and two more candidates had been conducted by the Selection / Recruitment Committee headed by the Respondent No.2. The Committee consisted of 5 members. Admittedly, the four members were present for the interview. They conducted the oral interview of the candidates appeared for the interview and allotted marks to each of the candidates as per their performance. In the oral interview, the Applicant secured 2.50 marks while the Respondent No.4 secured 17 marks. Since the Respondent No.4 secured highest marks i.e. 75 in aggregate (in written and oral examination). The Applicant secured 73.50 marks in aggregate. Since the Respondent No.4 secured highest marks, he was declared as successful candidate, and therefore, appointed on the post of Police Patil of village Thadiukkadgaon.

12. Learned Advocate for the Applicant has submitted that the Applicant is belonging to Scheduled Caste (Mahar). He applied for the appointment on the post of Police Patil of village Thadiukkadgaon in general category as the post was not reserved for any category. He has submitted that the Applicant secured highest marks i.e. 71 marks out of 80 in written examination while the Respondent No.4 secured 58 marks in written examination. He has submitted that in the oral examination, the Committee headed by the Respondent No.2 took a decision to divide the total marks of 20 kept for oral interview in different categories i.e. educational qualification, post experience, sports activities and for competency of the

post and for personality development, and thereafter, they allotted the marks to the candidates appeared for the oral interview accordingly. He has submitted that the said division of marks has been made by the Respondent No.2 and the members of the Committee intentionally with mala-fide intention to give less marks to the Applicant, as he belongs to Schedule Caste and accordingly, they allotted only 2.50 marks to the Applicant in the oral examination and favoured the Respondent No.4 and allotted more marks i.e. 17 marks to him. The Respondent No.4 secured 17 marks in the oral examination and consequently, he secured highest marks in aggregate. He has submitted that the said fact shows that mala-fideness on the part of Respondent No.2 and members of the Recruitment Committee while allotting the marks to the candidate at the time of oral interview.

13. He has further argued that there were five members in the Interview Committee, but only four members were present for conducting the oral interview and they allotted marks to each of the candidates appeared for the oral interview independently. Thereafter, their marks have been consolidated and thereafter, its average had been taken and accordingly, the marks had been allotted to each of the candidates out of 20 marks. He has submitted that the procedure adopted by the Respondent No.2 is against the recruitment process, and therefore, the selection of the Respondent No.4 on the post of Police Patil of village Thadiukkadgaon by the Committee

headed by the Respondent No.2 is illegal. Therefore, he prayed to allow the O.A. and to quash the order of Respondent No.2 selecting the Respondent No.4 for the appointment on the post of Police Patil of village Thadiukkadgaon.

14. Learned P.O. has submitted that there was no illegality in the recruitment process conducted by the Respondent No.2. He has submitted that no such decision making division of the marks on the basis of educational qualification, experience of the candidates, their participation in social sports activities and the performance in the oral interview has been taken by the Committee headed by the Respondent No.2 while taking the interview of the Applicant and others. He has submitted that the Respondent No.2 never issued such document which has been produced by the Applicant at Page No.46, and therefore, the same cannot be relied upon. Learned P.O. has further submitted that the Committee headed by the Respondent No.2 had conducted the interview of the candidates and allotted marks on the basis of their performance in the oral interview, their knowledge, etc. and there was no discrimination on their part while allotting the marks to the candidates. He has submitted that the Selection Committee allotted the marks fairly to the Applicant and other candidates and in the oral interview, the Applicant received less marks and the Respondent No.4 received more marks and consequently, the Respondent No.4 secured highest marks, and therefore, he was declared as selected candidate.

He has submitted that, thereafter, the Respondent No.2 appointed the Respondent No.4 on the post of Police Patil of village Thadiukkadgaon and the Respondent No.4 took charge and he is working there. The Applicant has not challenged the appointment of the Respondent No.4 and therefore, he prayed for dismissal of the O.A.

15. Learned P.O. has submitted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative and there is no Rule or Regulation which requires the Selection Committee to record reasons, and therefore, the decision of the Committee cannot be challenged and the same cannot be interfered. He has submitted that there is nothing on record to show that there was arbitrariness or malafidness on the part of the members of the Selection Committee while allotting the marks to the candidates appeared for oral examination. Therefore, the same cannot be questioned. He has submitted that the members of the Committee allotted the marks to the candidates appeared for oral examination with the fairness by adopting fair procedure, and therefore, he prayed to reject the O.A. In support of his submission, he has placed reliance on the Judgment in the case of **National Institute of Mental Health and Neuro Sciences Vs. Dr. K. Kalyana Raman and Ors. : AIR 1992 Supreme Court 1806** wherein it is mentioned as follows.

“7. In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is no rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with. The High Court in support of its reasoning has, however, referred to the decision of this Court in *Union of India V. Mohan Lal Capoor*, (1974) 1 SCR 797: (AIR 1974 SC 87). That decision proceeded on a statutory requirement. Regulation 5(5) which was considered in that case required the selection committee to record its reasons for superseding a senior member in the State Civil Service. The decision in Capoor case was rendered on 26th September, 1973. In June, 1977, Regulation 5(5) was amended deleting there requirement of recording reasons for the supersession of senior officers of the State Civil Services. The Capoor case

cannot, therefore, be construed as an authority for the proposition that there should be reasons formulated for administrative decision. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement. This principle has been stated by this Court in R.S. Dass V. Union of India, 1986 (Suppl) SCC 617 at p.633: (AIR 1987 SC 593 at pp. 603-604) in which Capoor case (AIR 1974 SC 87) was also distinguished.”

It has been further observed in the said decision as follows.

“8. As to the first point we may state at the outset that giving of reasons for decision is different from, and in principle distinct from, the requirements of procedural fairness. The procedural fairness is the main requirement in the administrative action. The ‘fairness procedure’ in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration. But there is

nothing on record to suggest that the Selection Committee did anything to the contrary.”

16. I have gone through the documents on record. On going through the minutes of the meeting produced by the Respondents, it reveals that the Applicant, the Respondent No.4 and other two candidates had been called for oral interview. The Committee consisted of five members. At the time of oral interview, only four members attended the meeting. Each of the members allotted marks to each candidate out of 20. Thereafter, they consolidated the marks allotted by the four members to each candidates and took the average marks as the marks allotted to the candidate in oral interview out of 20 marks. On perusal of the statement produced by the Respondent No.2, it reveals that four members of the Committee who were present for the interview, allotted 17 marks each to the Respondent No.4, and therefore, he received 17 marks. While two of the members allotted two marks each to the Applicant and remaining two members allotted three marks each to the Applicant. He secured 10 marks in aggregate. By taking average of it, the Applicant secured 2.50 marks in oral. Thereafter, the marks had been included in the marks secured by each of the candidate in the written examination. In aggregate, the Applicant received 73.5 marks while the Respondent No.4 secured 75 marks. As the Respondent No.4 secured highest marks, he was declared as selected candidate. The Respondent No.2 has specifically

stated that they assessed the performance of each of the candidate appeared for the oral interview on the basis of their knowledge, performance, personality, social touch in knowledge, etc. There is nothing on record to show that there was mala-fideness on the part of the members of the Selection Committee while allotting the marks allotted to the candidate appeared for the oral examination. No specific allegation has been made by the Respondent No.2 in that regard. His only grievance is that the members of the Committee allotted less marks as he belonged to Schedule Caste is not supported by any material. Therefore, the contention of the Applicant in this regard is not acceptable.

17. The minutes of the meeting of the Selection Committee regarding the oral interview shows that the marks have been allotted to the candidate by each of the members by considering their performance in the interview, and thereafter, the selection of the selected candidate has been made. In the absence of substantial material on record, it cannot be said that the recruitment process and the oral interview had been conducted by the Committee headed by the Respondent No.2 arbitrarily and with mala fide intention. Therefore, no interference in the decision of the Respondent No.2 declaring the Respondent No.4 as selected candidate is required.

18. I have gone through the above said decision relied upon by the learned P.O. The principle laid down in the above

said decision is most appropriately applicable in the instance case. There is nothing on record to show that the Selection Committee took the decision with mala-fide intention and against the provisions of the Recruitment Rules. Therefore, no interference in the impugned order is called for. There is no merit in the O.A. and consequently, deserves to be dismissed.

19. In view of the above said discussion in the foregoing paragraph, the Original Application stands dismissed with no order as to costs.

Sd/-

(B.P. Patil)
Member-J
17.04.2018

Mumbai

Date : 17.04.2018

Dictation taken by :

S.K. Wamanse.

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