

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NO.452 OF 2022
WITH
ORIGINAL APPLICATION NO.1310 OF 2023**

O.A.No.452/2022

Dattatraya Anantrao Jadhav,)
R/at. Room No.2005, Mhada Building,)
Ghodpdeo, Mumbai 400 033) **....APPLICANT**

VERSUS

1. The State of Maharashtra,)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032)
2. The Director General of Police,)
Shahid Bhagat Singh Marg,)
Colaba, Mumbai 400 001)
3. The Director, Directorate of)
Sports and Youth Services,)
Somwar Peth, Pune 411 001)
4. The Secretary,)
Maharashtra Public Service,)
Commission, 5th and 7th floor,)
Cooprej Telephone Exchange)
Bldg. Maharshi Karve Marg,)
Cooprej, Mumbai 400 021)

5. Akshay Madhavrao Patil,)
 Chandrai Niwas, Zilla Parishad)
 Road, Patil Vasti, Shivani, Post)
 Karadkhed, Nanded Deglur,)
 Shivani 431 718) **..RESPONDENTS**

WITH

O.A.No.1310/2023

- Dattatraya Anantrao Jadhav,)
 R/at. Room No.2005, Mhada Building,)
 Ghodpdeo, Mumbai 400 033) **....APPLICANT**

VERSUS

1. The Secretary,)
 Through Home Department,)
 Mantralaya, Mumbai 400 032)
2. The Director General of Police,)
 Shahid Bhagat Singh Marg,)
 Colaba, Mumbai 400 001)
3. The Commissioner of Police,)
 Near Crawford Market, CSMT,)
 Mumbai.
4. Maharashtra Public Service,)
 Commission, Trishul Gold Field,)
 Plot No.34. Sector 11, Opp.)
 Sarovar Vihar, Belapur, CBD,)
 Navi Mumbai 400 614) **..RESPONDENTS**

Mr. S.S. Dere, learned Counsel for the Applicants.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

Ms. Punam Mahajan, learned Counsel for the Respondent No.5.

CORAM : **Justice Mridula Bhatkar, Chairperson
Ms. Medha Gadgil, Member (A)**

RESERVED ON : **30.01.2024**

PRONOUNCED ON : **01.02.2024**

J U D G M E N T

1. Both the Original Applications are filed by one Applicant who has participated in the recruitment process for the post of Police Sub Inspector (P.S.I.) pursuant to the advertisement dated 07.12.2016. In O.A.No.452/2022 the Applicant has challenged the show cause notice dated 12.08.2021, issued by the Respondent No.4 directing other Respondents to cancel the appointment of the Applicant. The said show cause notice was issued by the Respondent when they found that the Applicant's Sports Validity Report dated 09.10.2017 was on the basis of forged documents and therefore why the candidature of the Applicant should not be cancelled.

In O.A.No.1310/2023 the same Applicant had challenged the show cause notice dated 06.05.2022, 28.11.2022 and 09.05.2023 whereby Respondent No.3, has initiated the Departmental Enquiry against the Applicant. In the O.A.No.452/2022 by order dated 13.06.2022 this Tribunal had directed Maharashtra Public Service Commission (M.P.S.C.) not

to take any decision on the show cause notice dated 12.08.2021. We are informed by the learned Counsel Mr. Dere and also by learned C.P.O. Ms. Manchekar that in the meanwhile the Applicant was sent to Maharashtra Police Academy (M.P.A.) at Nashik. When the first show cause notice regarding his Sports Invalidation Report was issued, the Applicant had completed six months of training in M.P.A. The Applicant is now posted and working as P.S.I. since last three years.

2. Admitted facts in this case are as below :

The Applicant belongs to Open General Category and has sought Horizontal Reservation in the Sports Category. He has secured 230 marks. In the first final recommendation list published on 20.06.2018 his name was shown as qualified in Open General Category at Serial No.368 and in the Rank No.351 in the said list. Below him 17 candidates who have secured 230 marks are shown. Total posts for Open General Category were earmarked 368 in the said advertisement. In 368 posts of Open General Category the Applicant's rank was shown at Sr. No.351. In the revised merit list which was subsequently published on 12.04.2019, the Applicant who was at Serial No.368, was now shown at Serial No.1 in the Open Sports Category.

3. The Applicant's Sport Certificate was verified subsequently and was found bogus by the office of the Deputy Director, Sports as many instances of false Sports Certificate were unearthed. The Respondent found that the Sports Certificate submitted by the Applicant to M.P.S.C. is also, prima facie, forged and therefore his candidature is to be cancelled. The Respondent issued the impugned show cause notice to the Applicant which is challenged in O.A.No.452/2022. In the said notice dated 12.08.2021, the M.P.S.C., has called upon the Applicant to give his explanation. Pursuant to that notice, the applicant by letter dated 20.09.2021 has submitted the explanation that he was selected in the Open General Category in the list dated 20.06.2018 as he has secured 230 marks, and in Open General Category the last cut-off was 229 marks and therefore the candidature of the Applicant is not to be cancelled.

4. Learned Counsel Mr. Dere has relied on the judgment dated 28.08.2018 passed by M.A.T. Bench Nagpur in O.A.No.25/2018, Rupali Ashok Sondawale Versus The State of Maharashtra & Ors. which is identical with the present case. Learned Counsel Mr. Dere has relied on paragraph 11 of the affidavit-in-reply dated 17.10.2022 (O.A.No.452/2022) filed on behalf of Respondent No.4, through Mr. Bhalchandra Pandurang

Mali, Under Secretary, Maharashtra Public Service Commission, Mumbai. Learned Counsel Mr. Dere has submitted that the Sports Certificate was verified on 07.10.2017. However, the cut-off date of filing the application form was 01.06.2017. So admittedly, it was after the cut-off date. Learned Counsel Mr. Dere pointed out that for this reason the Applicant's Sports Certificate was invalidated. Learned Counsel Mr. Dere has submitted that as per Corrigendum dated 11.03.2019 in Clause 4, it is mentioned that the said Corrigendum was applicable from the date when it was issued. By this Corrigendum the Government made it compulsory to file the Sports Validation Report at the time of submission of the Application Form. However, this Corrigendum is made applicable from the date of its issuance i.e., 11.03.2019 and for that reason the candidature of the Applicant in the Sports Category cannot be cancelled. He submitted that the Applicant did not claim his candidature in Sports Category and he is selected and appointed in Open General Category only. Learned Counsel has therefore, submitted that the Applicant who has put in five years in the service, his candidature should not be cancelled.

5. Learned Chief Presenting Officer Ms. Manchekar has also relied on the affidavit-in-reply dated 17.10.2022 (O.A.No.452/2022) filed on behalf of Respondent No.4 through Mr.

Bhalchandra Pandurang Mali, Under Secretary, Maharashtra Public Service Commission. However, while defending the show cause notice she submitted that in O.A.No.452/2022 the notice was issued by the M.P.S.C. as the Sports Certificate submitted by the Applicant was found forged and his Sports Validation Report was also cancelled. She has submitted that in O.A.No.1310/2023 Respondent-State had issued notice dated 28.11.2022 for the Preliminary Enquiry and notice dated 09.05.2023 for the Departmental Enquiry. She has submitted that these issues are different and therefore she opposes the relief prayed by the Applicant. Learned C.P.O. Ms. Manchekar has relied on the short affidavit-in-reply dated 11.12.2023 in O.A.No.1310/2023 filed on behalf of Respondent No.4, through Mr. Dilip Arjun Waghe, Under Secretary, office of Secretary, M.P.S.C. and also relied on the affidavit-in-reply dated 18.01.2024 (O.A.No.1310/2023) filed on behalf of Respondent No.3, through Mr. Rajeshsingh A. Chandel, Assistant Commissioner of Police, office of Additional Commissioner of Police, Mumbai. In the affidavit dated 18.01.2024 the Respondent No.3 has defended its action of initiating Departmental Enquiry.

6. So far as Respondent No.6 is concerned learned Counsel Ms. Mahajan has submitted that Respondent No.5 should not

have been made party because he is rightly appointed and is also serving. Learned Counsel Mr. Dere concedes to the submissions made by learned Counsel Ms. Mahajan and in view of this the name of Respondent No.5 is deleted from the array of the Respondents.

7. In the judgment in O.A.No.25/2018 the Applicant has applied in Sports Category at the time of filling up the Application Form. However, she did not mention what type of Sports she played and so the selection was cancelled. However, she was meritorious so qualified in S.C. General Category. Therefore the Division Bench at M.A.T., Bench at Nagpur had retained her recommendation and selected in SC General Female and accordingly she was appointed. We are of the view that the said judgment is applicable in the present case so far as the claim of the applicant in the present O.A. is concerned in Open General Category as he has secured 230 marks and cut-off in Open General Category is 229 and the Applicant is shown at rank 351, out of 368 posts. Though the Applicant got the benefit of this judgment because the name of the Applicant was shown in the first list in Open General Category and in the second list in Sports Category, in O.A.No.25/2018 there was no such issue of bogus certificate which is a crucial aspect in the present O.As.

8. We note that the Respondent-State did not file proper affidavit-in-reply in these matters. Only short affidavits are filed. It is clear that the Applicant had applied in the Sports Category. However, he has secured higher marks than the cut-off marks in the Open General Category so in the first list his name was mentioned in Open General Category and he was sent for training thereafter his name was shown selected at Serial No.1 in the Sports Category. When the first show cause notice was issued the Applicant was already sent for training and when the Department issued notices which are challenged in O.A.No.1310/2023, the Applicant had completed his training and is now working as P.S.I. However, the issue that the Applicant applied under the Sports Category and has submitted false certificate has raised a Question Mark and therefore the Department has sent show cause notices for Departmental Enquiry. Thus, the issue of submission of forged Sports Certificate is altogether different remained undecided therefore the Department may proceed with the Departmental Enquiry if they want. Hence, we do not indulge into show cause notices issued by the Department to the present Applicant for conducting Departmental Enquiry. Hence, we partly allow these Original Applications with following order :

ORDER

- (A) We hold that the recommendation and appointment of the Applicant is from Open General Category.
- (B) Prayer for cancellation of the impugned Notices dated 06.05.2022, 28.11.2022 and 09.05.2023, regarding initiation of Departmental Enquiry, is rejected.

SD/-
(Medha Gadgil)
Member (A)

SD/-
(Mridula Bhatkar, J.)
Chairperson

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