

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD, BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.508 OF 2014
(Subject : Appointment)**

DISTRICT : NANDED

- 1) Shri Pralhad Mahipati Shinde)
R/o. District Prisan Govt. Quarters)
Nanded, District Nanded.)
- 2) Madhukar Kisan Kamble,)
R/o. District Jail Govt. Quarters,)
Nanded, Distrcit Nanded.)

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,)
Through its Secretary,)
Home Department,)
Mantralaya, Mumbai32)
- 2) Additional Director General of Police and)
Inspector General of Prison,)
2nd floor, Old Administrative Building,)
Pune 1)

- 3) Divisional Commissioner,)
Office of Divisional Commissioner,)
Pune.)

....RESPONDENTS.

Shri A.S. Deshmukh, learned Advocate for the Applicants.

Shri S.K. Shirse, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN (A)
SHRI B.P. PATIL, MEMBER (J)

DATE : 16.08.2017.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN (A)

J U D G M E N T

1. Heard Shri A.S. Deshmukh, learned Advocate for the Applicants and Shri S.K. Shirse, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by two Applicants working as Jail Guards, who are seeking promotion to the post of Jailer, Grade-II.

3. Learned Counsel for the Applicants argued that the Applicants were appointed as Jail Guards on 07.02.2002 from Scheduled Caste Category. On 06.08.2013, the Respondent No.2 issued a notification for conducting examination for promotion to the post of Jailer, Grade II. The Applicants No.1

and 2 scored 111.15 and 112.75 marks respectively in the examination and were placed at Serial No.50 and 47 in the merit-cum-select list. Initially, the number of vacancies was shown as 30 and 3 posts were shown reserved for S.C. category. However, a corrigendum was issued on 06.08.2013 and total number of posts to be filled was increased to 34. While there were no posts were reserved for S.C. category. Learned Counsel for the Applicants argued that the Respondent No.2 was required to fill the vacancies as per notification dated 06.08.2013. However, the Respondent No.2 has filled the vacancies as per corrigendum dated 03.03.2014. This is highly irregular. Learned Counsel for the Applicants contended that the entire selection process was highly doubtful. Once a notification is issued, it cannot be changed mid-way. The corrigendum dated 03.03.2014 is arbitrary and has been issued in violation of principles of natural justice.

4. Learned Presenting Officer (P.O.) argued that this O.A. is totally misconceived. The Respondent No.2 has issued circular dated 06.08.2013 to fill up a total of 30 posts of Jailor Grade II by promotion. As per this Circular 3 posts were reserved for S.C. category. However, the roster register was got approved from Divisional Commissioner, Pune and the reservation of different categories was required to be changed. The total number of vacancies was 34 and no reservation for S.C. category was there. As the Applicant had not qualified from Open Category, and there were no vacancies in S.C. category, they could not be promoted as Jailor, Grade II.

Learned P.O. argued that there is no arbitrariness or violation of the principals of natural justice. The reservation changed as per the advise of the backward class all of the Divisional Commissioner, Pune.

5. We are confining our observation to the reservation of posts of S.C. category for promotion to the post of Jailor, Grade II. The Applicants have clearly stated that they had applied for promotion from promotion quota. Circular dated 06.08.2013 issued by the Respondent No.2 is also filling up posts of Jailor, Grade II by promotion. The corrigendum dated 03.03.2014 is also to fill post by promotion. The question is whether the Respondent No.2 was barred from making any changes in the posts reserved for any categories. The Applicants belong to S.C. category and three posts were initially shown as reserved for S.C. category. However, when the matter was referred to the Backward class all of Divisional Commissioner, Pune, the reservation was modified on posts were reserved for S.C. category. We do not find that the decision of changing reservation was arbitrary or violative of the principles of natural justice. The Applicants admittedly could not reach the standard for promotion from open category. There were no vacancies from S.C. category. As a result, they could not be promoted. We do not find that the Applicants have been able to make out any case that they were eligible for promotion.

6. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-

(B.P. PATIL)
MEMBER(J)

Sd/-

(RAJIV AGARWAL)
VICE-CHAIRMAN(A)

Place : Aurangabad
Date : 16.08.2017
Typed by : PRK