

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.63 OF 2019

DISTRICT : PUNE

Shri Pravin G. Kumthekar.)
Occu.: Ex-Police Patil of Village Valhe,)
Tal.: Purandar, District : Pune.)...**Applicant**

Versus

1. The Sub-Divisional Magistrate,)
Daund-Purandar Sub-Division,)
Purandar, District : Pune.)
2. The State of Maharashtra.)
Through Principal Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
3. Shri Balkrushna S. Raut.)
R/at. Valhe, Tal.: Purandar,)
District : Pune.)...**Respondents**

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

Mrs. A.B. Kololgi, Presenting Officer for Respondents 1 & 2.

Mr. M.B. Kadam, Advocate for Respondent No.3 is absent.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 11.07.2019

JUDGMENT

1. The challenge is to the order dated 12.09.2018 whereby the appointment of the Applicant to the post of Police Patil stands cancelled with immediate effect.

2. Shortly stated facts giving rise to this application are as follows :-

The Applicant is the resident of Village Valhe, Taluka Purandar, District Pune. Earlier, by order dated 25.05.1997, the Respondent No.1 – S.D.O, Daund had appointed him for the post of Police Patil for five years and then again by order dated 04.10.2002, it was extended for 10 years. Later again, by order dated 25.10.2012, an extension was granted to the Applicant for the period of 10 years i.e. upto 24.09.2022. However, the Respondent No.3 made complaint on 21.04.2018 that the post of Police Patil of Village where Police Station or Police Chowky are functioning are already abolished by the Government, and therefore, the appointment of the Applicant to the post of Police Patil be cancelled. On receipt of complaint, the Respondent No.1 conducted enquiry and having found that there is already Police Chowky / Out Post functional at Village Valhe within the jurisdiction of Police Station, Jejuri in view of Government policy vide Circular dated 30.09.1986, there being no requirement of the post, cancelled the appointment of the Applicant on the post of Police Patil and also cancelled the post with immediate effect. The Applicant has challenged the order in the present O.A. invoking Section 19 of the Administrative Tribunals Act, 1985.

3. The Respondents opposed the application justifying the impugned order contending that, though earlier, the Applicant was appointed on the post of Police Patil and his period was extended from time to time later having noticed that there exists Police Chowky / Out Post at Village Valhe in view of Government Circular dated 30.09.1986 after giving an opportunity of hearing to the Applicant, by impugned order dated 12.09.2018, the post of Police Patil as well as appointment of the Applicant to the post of Police Patil stands cancelled.

4. Shri A.V. Bandiwadekar, learned Advocate for the Applicant sought to assail the impugned order on the following grounds :-

- (a) The Circular dated 30.09.1986 is applicable to the place where full-fledged Police Station or Police Chowky is functional and not to the place where Police Out Post is functional.
- (b) The Circular dated 30.09.1986 has no force in law in absence of amendment to Maharashtra Village Police Patil Act, 1967.
- (c) Despite the Circular dated 30.09.1986 at some Villages, the appointment of Police Patil is kept functional but the Applicant is subjected to discrimination.
- (d) As the Applicant's extension was upto 24.09.2022, the appointment cannot be cancelled before completion of his term.

5. Whereas, Smt. A.B. Kololgi, learned P.O. has pointed out that there exists Police Chowky / Police Out Post at Village Valhe, and therefore, there was no requirement of the post of Police Patil, and accordingly, the appointment of the Applicant stands cancelled in terms of Government Circular dated 30.09.1986. She has also pointed out that the issue of legality of Circular dated 30.09.1986 has been already dealt with by MAT, Aurangabad Bench wherein the challenge to the Circular was rejected and the order of cancellation of appointment to the post of Police Patil was confirmed.

6. The appointment of Police Patil are governed by Maharashtra Village Police Act, 1967 (hereinafter referred to as 'Act 1967' for brevity) and the Maharashtra Police Patil (Recruitment, Pay and Allowances and other Conditions of Service) Order, 1968 (hereinafter referred to as 'Order 1968' for brevity). As per Section 5 of 'Act 1967', the Government is empowered to appoint one or more Police Patils for a Village or group of Villages. Whereas,

Section 6 of 'Act 1967' provides duties to be performed by a Police Patil, which are as follows :-

“Subject to the orders of the District Magistrate, the Police-Patil shall,-

- (i) act under the orders of any other Executive Magistrate within whose local jurisdiction his village is situated;
- (ii) furnish such returns and information as may be called for by such Executive Magistrate;
- (iii) constantly keep such Executive Magistrate informed as to the State of crime and all matters connected with the village police and the health and general condition of the community in his village;
- (iv) afford every assistance in his power to all Police Officers when called upon by them in the performance of their duty;
- (v) promptly obey and execute all orders and warrants issued to him by a Magistrate or Police Officer;
- (vi) collect and communicate to the Station Officer intelligence affecting the public peace;
- (vii) prevent within the limits of his village the commission of offences and public nuisances, and detect and bring offenders therein to justice;
- (viii) perform such other duties as are specified under other provisions of this Act, and as the State Government may, from time to time, by general or special order specify in this behalf.”

The Police-patil shall dispose of the village establishment so as to afford the utmost possible security against robbery, breach of the peace and acts injurious to the public and to the village community, and shall report to the Executive Magistrate all instances of misconduct or neglect committed by any member of the said establishment.”

7. Thus, it is quite clear that the Police Patils are primarily appointed at the place where there is no Police Station to ensure maintenance of law and order situation and Police Patils are required to assist Police and to prevent the commission of offence, public nuisance, etc. Thus, in short, the Police Patil has to assist the Police in several ways for the maintenance of law and order in remote places. As such, the Police Patils are being appointed for non-availability of regular Police Station in remote Villages.

8. The perusal of Circular dated 30.09.1986 (Page No.26 of Paper Book) reveals that the Government has taken decision that where Police Station or Police Chowky are established, there will be no requirement of Police Patil and the appointment of Police Patil at such places/ Villages shall be cancelled and no further appointments be made in future. Clause No.3 of the Circular is material which is as follows :-

“३. महाराष्ट्र ग्राम पोलीस पाटील (सेवाभरती, वेतन, भत्ते आणि इतर सेवाशर्ती) आदेश, १९६८, मधील नियम ४ अनुसार पोलीस पाटलाची प्रथम नियुक्ती ५ वर्षासाठी करण्यात येते व ही नियुक्तीची मुदत संपल्यानंतर या नियुक्तिते नुतनीकरण एकावेळी ५ वर्षासाठी करण्यात येते. या तरतुदीचा विचार करून शासन आता असे आदेश देत आहे की,

१. शहरी भागातील, तसेच ग्रामीण भागातील, जेथे नियमित पोलीस ठाणी / चौक्या अस्तित्वात आहेत, अशा ठिकाणी असलेल्या पोलीस पाटलांची नेमणूक, त्यांच्या प्रथम नियुक्तीची / नुतनीकरणाची मुदत संपुष्टात येईल त्या दिनांकापासून खंडित करण्यात यावी व त्यानंतर तेथे पोलीस पाटील नेमण्यात येऊ नयेत आणि,

२. अशा तऱ्हेची नागरी / ग्रामीण भागातील जी पदे सध्या रिक्त आहेत, ती यापुढे भरण्यात येऊ नयेत.

४. हे आदेश हे परिपत्रक निर्गमित करण्याच्या दिनांकापासून अंमलात येत आहेत.

५. सर्व जिल्हा दंडाधिकार्यांनी त्यांच्या कार्यक्षेत्रांमध्ये या आदेशाचे कसोशीने पालन होईल याची खबरदारी घ्यावी व पद खंडित झाल्याबरोबर संबंधित पोलीस ठाण्याला आणि जिल्हा पोलीस अधीक्षकांना / पोलीस आयुक्तांना त्याप्रमाणे कळवावे.”

9. As such, by Circular dated 30.09.1986, directions were issued to Collectors to ensure its compliance. Then again, by Circular dated 12th June, 1989, by way of clarification, the following instructions were issued.

“३. परिच्छेद २ मध्ये नमुद केल्याप्रमाणे यासंदर्भात शासनाकडे प्राप्त झालेली निवेदने शासनाच्या विचाराधीन होती. आता त्यावर निर्णय झाला असून शासनाने असा निर्णय घेतला आहे की, ज्या ठिकाणी पोलीस ठाणे/ चौक्या/ आऊट पोस्ट आहेत त्याठिकाणी पोलीस पाटीलांची नेमणूक करू नये. म्हणून यापूर्वी दिनांक ३० सप्टेंबर, १९८६ च्या शासन परिपत्रकात देण्यात आलेल्या आदेशांची अंमलबजावणी करण्यात यावी.”

10. Thus, it is explicit that at the places where Police Station / Police Chowky or Police Out Post are functional, there will be no need of appointment or continuation of Police Patil and again directions were issued for compliance of Circular dated 30.09.1986. This Circular dated 12th June, 1989 thus covered the places where not only full-pledged Police Station is functional but the Villages where Police Chowky or Police Out Post are functional. This being the position, the submission advanced by the learned Advocate for the Applicant that the Circular is applicable only to the places

where full-pledged Police Station is functional holds no water. It is also applicable to the places where Police Chowky or Police Out Post are functional.

11. In this behalf, material to note that the documents placed on record by the Applicant itself establishes that there is Police Out Post functional at Village Valhe and 2 Police Constables and 1 Assistant Police Inspector are deputed at Valhe in the said Police Out Post. The said Out Post comprises 10 Villages in its jurisdiction. Thus, there is no denying that there exists Police Out Post with the staff of 3 Police Personnel at Village Valhe.

12. Furthermore, before passing impugned order, the Respondent No.1 had also called the report from Police Inspector, Jejuri. Accordingly, P.I, Jejuri Police Station forwarded his report on 06.05.2018 which is at Page No.34 of P.B. In the report, he stated that the Applicant always remains busy in his business of grocery and poultry farm and except Independence Day and Republic Day, he never comes to Police Chowky / Police Out Post. It is further stated that he often remains absent in the meeting convened at Police Station and not discharging his duties as expected in law. He also noticed that the Applicant is adamant and non-cooperative. Thus, the sum and substance of the report is that the Applicant was not discharging duties of Police Patil. On receipt of report, the Respondent No.1 conducted enquiry and after giving an opportunity of hearing to the Applicant, he has passed impugned order of cancellation of the appointment of the Applicant to the post of Police Patil.

13. The submission advanced by the learned Advocate for the Applicant that the Circular dated 30.09.1986 has no legal sanctity in absence of amendment to the 'Act 1967' is devoid of merit. Indeed, this issue is already dealt with by this Tribunal, Bench at Aurangabad in T.A. No.2778 of 1991

wherein in similar situation the O.A. was filed. The O.A. was dismissed with following order.

“The petitioners who were formerly working as Police Patils at their respective villages, are challenging the circular issued by the Government dated 12-6-1989 and 30-9-1986 whereby the Government took a policy decision that the post of Police Patils at places where Police Thanas/Police Choukis/Police Stations have been created, shall stand abolished. We find that the petition is meritless. In fact, we have already disposed of such a petition i.e. TA No.2812/1991 on 17-1-2002. We have taken a view that continuance or the abolition of a particular post is the prerogative of police makers. The Government decided the policy. Furthermore, it stands to reason to take such a policy decision. Police Patil does not have any job to perform once a Police Station/Police Chowki/Out Post is created at the said place. Petition is meritless. Hence dismissed.”

14. Thus, it is the prerogative of the Government whether to continue the post of Police Patil and once the Government has taken decision, the Applicant has no vested right to ask for continuation of the post. In view of establishment of Police Out Post at Valhe, there was no function to be performed by the Applicant and he had no job to perform as Police Patil. Therefore, the order of his appointment is rightly cancelled.

15. In so far as the ground of discrimination is concerned, the learned Advocate for the Applicant pointed out that at Village Nira Police Station, Jejuri and at Vilalge Parinche Police Station, Saswad, there are Police Chowkies but the appointment of Police Patils are not cancelled, and therefore, the Applicant is subjected to discrimination. In so far as this aspect is concerned, merely because inadvertently, at some places, the appointment of Police Patils are not cancelled in terms of Government policy dated 30.09.1986 that does not mean that the appointment of the Applicant is liable to be continued. Needless to mention that, if some orders are passed in ignorance to law and rules, it cannot be taken as discrimination otherwise it amounts to perpetuate illegality. Suffice to say, wrong or mistake if noticed

cannot be allowed to be repeated. Therefore, the continuation of Police Patils at some places as pointed out by the learned Advocate for the Applicant does not legalize the Applicant's appointment in the teeth of policy dated 30.09.1986.

16. True, by last order, the Applicant's tenure was upto 24.09.2022. It seems that the extension was granted in ignorance of Government Circular dated 30.09.1986. Therefore, having noticed the Circular, the Respondent No.1 was bound to act in pursuance of Government policy. Furthermore, in view of report submitted by P.I, Jejuri, it is explicit that the Applicant was not discharging his duties as expected in law and was of no help or any kind of assistance to the Police. Besides, in view of existence of Police Out Post at Village Valhe, there was no more requirement of Police Patil. This being the position, the cancellation of the appointment to the post of Police Patil cannot be faulted with.

17. The totality of aforesaid discussion leads me to conclude that the challenge to the impugned order is devoid of merit and O.A. deserves to be dismissed. Hence, the following order.

ORDER

The Original Application stands dismissed with no order as to costs.

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

Mumbai

Date : 11.07.2019

Dictation taken by :

S.K. Wamanse.