

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.639 OF 2018

Mrs Trupti Navnath Mujumale,)
Aged 28 yrs, Occu.: Housewife,)
R/at : A/P Kondhanpur, Tal. Haveli, Dist. Pune 412205)

....Applicant

Versus

1. The State of Maharashtra,)
Through Guardian Minister of Pune)
& Food Civil Supplies and Consumer)
Protection, Food and Drugs Administration)
Mantralaya, Mumbai.)
2. Sub Divisional Officer, Haveli, Sub Division)
Pune, O/at 7, Nilgiri Bunglow, Ranicha Bag,)
Behind Alfabachat Bhavan, Pune 411 001.)
3. Residential Nayab Tahsildar, Sub Division)
Pune, O/at. 7, Nilgiri Bunglow, Ranicha Bag,)
Behind Alfabachat Bhavan, Pune 411001.)
4. Anita Vikas Mujumale,)
R/at A/P Kondhanpur, Tal. Haveli,)
Dist. Pune – 412205.)

...Respondents.

Ms K. T. Pawar, Counsel for the Applicant.

Smt. Kranti Gaikwad, Presenting Officer for the Respondents 1 to 3.

Shri K. R. Jagdale, Advocate for the Respondent No.4.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 10.06.2019

J U D G M E N T

1. Heard Ms K. T. Pawar, learned Counsel for the Applicant. Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent Nos. 1 to 3 and Shri K. R. Jagdale, learned Advocate for the Respondent No.4.

2. Only issue posed for consideration is whether the appointment of Respondent No.4 to the post of Police Patil of village Kondhanpur is unsustainable in law for non filing of Non-Creamy Layer Certificate along with application form.

3. The Respondent No.2, S.D.O. by Notification dated 07.06.2017 had invited an applications to fill in the post of Police Patil. The applications accompanied with requisite documents were required to be submitted on or before 21.06.2017. The Respondent No.4 had applied for the post of Police Patil but she had not submitted Non-Creamy Layer Certificate along with an application. The Respondent No.2 S.D.O. by order dated 22.06.2017 permitted all the candidates to participate in the process and time was also granted to submit Non-Creamy Layer Certificate. The Applicant had submitted Non-Creamy Layer Certificate on 23.06.2017. The Respondent No.2 continued further process and appointed the Respondent No.4 as Police Patil by order dated 18.12.2017.

4. The Applicant has challenged the appointment of Respondent No.4 on the ground that she did not submit Non-Creamy Layer Certificate along with application and, therefore, appointment deserves to be cancelled.

5. Learned Counsel for the Applicant sought to contend that the Respondent No.2 S.D.O. has no authority to extend or relax the condition of non submission of Non-Creamy Layer Certificate and has favoured the Respondent No.4 for selection to the post of Police Patil. She has pointed out that admittedly, the Respondent No.4 has produced Non-Creamy Layer Certificate after the last date of submission of application and it being in the contravention of notification, the appointment deserves to be set aside.

6. Per contra, the learned P.O. submitted that in view of the relaxation granted by the S.D.O., the Respondent No.4 had submitted Non-Creamy Layer Certificate much before the issuance of final order of appointment and, therefore, the challenge to the appointment is devoid of merit.

7. Shri K. R. Jagdale, learned Advocate for the Respondent No.4 also reiterated that in view of relaxation granted by the Respondent No.2 S.D.O., the Applicant had submitted Non-Creamy Layer Certificate and at any rate she being eligible on the date of issuance of appointment order, the order of appointment cannot be faulted with.

8. There is no denying that as per one of the stipulations in notification, the Applicant as well as other interested candidates were required to submit all requisite documents including Non-Creamy Layer Certificate along with an application. The last date of submission of application was 21.06.2017. It is also not in dispute that the Applicant could not produce Non-Creamy Layer Certificate along with application and submitted it on 23.06.2017. She got Non-Creamy Layer Certificate on 22.06.2017. It is also not in dispute that the Respondent No.4 stood in merit. She was appointed to the post of Police Patil by order dated 18.12.2017.

9. The perusal of order dated 22.06.2017 issued by non another then S.D.O. who is appointing authority for the post of Police Patil reveals that considering the difficulties faced by the candidates for getting Non-Creamy Layer Certificate of the current year, some relaxation was granted and candidates were allowed to participate in written examination. The written examination was held on 02.07.2017. Admittedly, the Respondent No.4 had submitted Non-Creamy Layer Certificate on 23.06.2017. The interviews were conducted on 30.11.2017, whereas the final appointment order was issued on 18.12.2017.

10. In view of above, it is very much clear that the S.D.O. who is appointing authority well within his powers relaxed the condition of non filing of Non-Creamy Layer Certificate in respect of the candidates having regard to their difficulties to submit Non-Creamy Layer Certificate of the current year along with application. The Respondent No.2 in its order dated 22.06.2017 categorically stated that because of non submission of Non-Creamy Layer Certificate there are chances of rejection of the application on technical ground and, therefore, thought it fit to relax the condition granting liberty to all the candidates to submit Non-Creamy Layer Certificate at later point of time and all the candidates were allowed to appear in written examination. As such, the Respondent No.2- S.D.O. apparently relaxed the condition of submitting the Non-Creamy Layer Certificate along with application considering the difficulties faced by the candidates. It is not that S.D.O. has given undue favour to the Respondent No.4 alone. By order dated 22.06.2017, he relaxed the condition in respect of all the candidates in view of their genuine difficulties. Therefore, the order of S.D.O. relaxing the condition is just and fair. It cannot be termed without jurisdiction much less illegal.

11. In view of above discussion, I have no hesitation to sum up that the appointment of the Respondent No.4 to the post of Police Patil does not suffer from any illegality much less to render the appointment illegal on the ground of non filing of Non-Creamy Layer Certificate along with application in view of relaxation granted by the appointing authority.

12. Suffice to say, the application as devoid of merit and deserves to be dismissed.

ORDER

Original Application is dismissed with no order as to costs.

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

Place : Mumbai
Date : 10.06.2019
Dictation taken by : V.S.MANE.