

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.72 OF 2018

DISTRICT : Kolhapur

Shri Arun Mahadev Patil)
Age : 39 years, R/at Hasurchampu,)...**Applicant**
Tal. Gadhinglaj, Dist. Kolhapur.

Versus

1. The State of Maharashtra, through)
Department of Rural Development,)
Having its office at Mantralaya,)
Mumbai – 32.)
2. Collector & District Magistrate,)
Dist. Kolhapur.)
3. Sub-Divisional Magistrate, Sub-)
Division, Gadhinjlaj,)
Dist. Kolhapur.)
4. Shri Anil Maruti Hasure, Age : 35,)
Occ : Service, R/o. Hasurchampu,)
Tal. Gadhinglaj, Pin Code-416501,)
Dist. Kolhapur.).....**Respondents**

Shri M. G. Bagkar , Advocate for Applicant.

Smt. Archana B. K., Presenting Officer for Respondents 1 to 3.

None for Respondent No.4.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 11.03.2020.

JUDGMENT

1. Short issue posed for consideration in the present O.A. is whether the impugned order dated 26.12.2017 passed by the Respondent No.3 – S.D.O., Gadhinglaj, Tal. Kolhapur thereby declaring the Applicant ineligible for appointment to the post of Police Patil is unsustainable in law.

2. The Applicant as well as Respondent No.4 are resident of village Hasurchampu, Tal. Gadhinglaj, Dist. Kolhapur. The Respondent No.3 by proclamation dated 13.11.2017 invited applications to fill in the post of Police Patil of village Hasurchampu, Tal. Gadhinglaj, Dist. Kolhapur. In pursuance of Notification, the Applicant had applied for the post of Police Patil. He participated in the selection process and was qualified for interview. According to Applicant, he was the only candidate who cleared the written examination and was called for interview on 22.12.2017. However, the Respondent No.3 by order dated 26.12.2017 held him ineligible for appointment to the post of Police Patil on the ground of registration of crime vide Crime No.89/2007 against him. The Applicant has challenged this order dated 26.12.2017 in present O.A. Subsequent development is that, later the Respondent No.3 – S.D.O. had issued fresh proclamation on 15.01.2018 inviting applications for the post of Police Patil of village Hasurchampu. The Respondent No.4 participated in the process and was appointed by order dated 28.08.2018.

3. This Tribunal by order dated 25.01.2018 made it clear that any appointment made in pursuance to proclamation dated 15.01.2018 would be subject to outcome of this O.A. As such, the request of the Applicant to stay the selection process was rejected but an appointment if made would be subject to outcome of this O.A. Accordingly, the Respondent No.3 has appointed the Respondent No.4 as Police Patil.

4. On the above background, the Applicant has challenged the impugned order dated 26.12.2017 whereby he was held ineligible to the post of Police Patil and also challenged the appointment of Respondent No.4 dated 28.08.2018 to the post of Police Patil.

5. Shri Bagkar, learned Counsel for the Applicant sought to assail the impugned order dated 26.12.2017 on the ground that Applicant was discharged in Crime No.89/2007 under Section 169 of Criminal Procedure Code, and therefore, there was no such disqualification to invite the ineligibility to the post of Police Patil. He has invited my attention to the Character Certificate issued by the Superintendent Of Police dated 27.11.2017. He, therefore, submits that as the Applicant has already discharged in Crime No.89/2007, the impugned order holding the Applicant ineligible to the post of Police Patil is illegal.

6. Per contra, Smt. Archana B. K., learned P.O. submits that as per condition mentioned in Notification as well as provisions in Maharashtra Village Police Patil (Recruitment, Pay and Allowances & Other Conditions of Services) Order, 1968 (hereinafter referred to as 'Order 1968' for brevity) person to be appointment to the post of Police Patil must be suitable for employment of Polie Patil having regard to his antecedents. She, therefore, submits that in view of the registration of crime against the Applicant, opinion formed by the S.D.O. that he is not suitable for employment to the post of Police Patil cannot be faulted with even if the Applicant was discharged under Section 169 of Criminal Procedure Code.

7. Respondent No.4 though served is absent.

8. Indisputably, the offence vide Crime No.89/2007 under Section 302, 201 r/w 34 of IPC was registered against the Applicant. It is also not in dispute that later the Applicant was discharged under Section 169 of Criminal Procedure Code for want of evidence against him. Thus, it appears that during the investigation itself, the Applicant was discharged.

9. Now, let us see the provisions of 'Order 1968' as well as Notification issued by the Respondent No.3 – S.D.O. As per condition No.8 of Notification (page 16B of PB), the candidate was required to produce Character Certificate from Superintendent of Police. Condition No.8 is as follows :-

“कोणत्याही गुन्ह्यात दंड अगर शिक्षा झाली नसलेबाबत आणि पोलीस पाटील पदासाठी चारित्र्य व वर्तणूक चांगली असलेबाबत जिल्हा पोलीस अधिक्षक कोल्हापूर यांचा दाखला.”

10. Whereas eligibility criteria for appointment to the post of Police Patil is laid down in Clause 3 of 'Order 1968'. Here we are concerned with Clause 3(1)(e) of 'Order 1968' which is as follows :-

“3(1) Eligibility for appointment :- (1) No person shall be eligible for being appointed as a Police Patil, who
 (a).....
 (b).....
 (c).....
 (d).....
 (e) is adjudged by the competent authority after a summary inquiry to be of bad character, or has, in the opinion of that authority such antecedents as render him unsuitable for employment as Police Patil.”

11. Now turning to the facts of the case, the Applicant had tendered the Character Certificate dated 27.11.2017 before S.D.O. which is at page no.38 of PB. In the Character Certificate all that it is stated that offence vide Crime No.89/2007 was registered against the Applicant under Section 302, 201 r/w 34 of I.P.C. but he was discharged for want of evidence. These are the only contents of Certificate dated 27.11.2017. Certificate is silent about the behavior and character of the Applicant. The Applicant has also secured one more certificate dated 09.01.2018 (which is after passing the impugned order dated 26.12.2017), which is also on the similar line. Even assuming for a moment that specific mention about the character of the candidate in Character Certificate issued by the Superintendent of Police is not required, there is no denying that

offence under Section 302, 201 r/w 34 of I.P.C. was registered against the Applicant though later he was discharged for want of evidence.

12. Section (6) of Maharashtra Police Act, 1967 deals with the duties and operations to be performed by Police Patil which are as follows.

“6. 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.”

13. Thus, Police Patil is required to discharge various functions and duties as provided under the provisions of Bombay Police Act. He has to assist the police in execution of orders and to maintain the law and order in village. Indeed, he acts as a representative of police so as to get the firsthand information about the law and order situation in the village. It is on this background, the person to be appointed to the post of Police Patil must be of such character, which should not render him unsuitable for employment as Police Patil. Therefore, duty is cast upon the S.D.O. to consider the antecedents of the candidate

and to form the opinion as to whether he is suitable for employment as Police Patil. As the offence under Section 302 was registered against the Applicant, this aspect seems to have weighed the S.D.O. while declaring the Applicant unsuitable for the post of Police Patil. True, later the Applicant was discharged for want of evidence. In my opinion, having regard to the nature of duties of Police Patil, the person against whom crime has been registered under Section 302 of I.P.C. though later discharged itself would be enough to render such person unsuitable for employment to the post of Police Patil. Therefore opinion formed by the S.D.O. which is objective outcome of assessment of facts cannot be termed illegal.

14. For the aforesaid reason, I have no hesitation to sum up that O.A. is 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