

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.80 OF 2019

DISTRICT : PUNE

Shri Sandeep Kisan Pawale.)
Age : 41 Yrs., Occu.: Agriculturist,)
R/o. Kalus, Tal.: Khed, District : Pune.)...**Applicant**

Versus

1. The Collector, Pune.)
2. The Sub Divisional Officer, Khed Sub)
Division, Khed, District : Pune.)
3. Shri Rupesh Vasant Argade.)
Age : 35 Yrs., Occu.: Business & Agri.)
R/o. Kalus, Tal.: Khed, District : Pune.)...**Respondents**

Mr. Y.B. Lengare, Advocate for Applicant.

Ms. N.G. Gohad, Presenting Officer for Respondents 1 & 2.

Ms. Preeti Walimbe, Advocate for Respondent No.3.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 24.04.2019

JUDGMENT

1. In the present Original Application, the Applicant has challenged the impugned order dated 04.01.2019 whereby his appointment to the post of Police Patil stands cancelled, invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

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

The Applicant is the resident of Village Kalus, Taluka Khed, District Pune. On 08.06.2017, the Respondent No.2 (S.D.O, Khed) had published the Advertisement inviting the applications for filling in the post of Police Patil of Village Kalus from OBC category. Accordingly, the Applicant, Respondent No.3 and others submitted applications for the post of Police Patil. The Respondent No.2 accordingly conducted Written Examination as well as Oral Examination. The Applicant has secured total 87 marks whereas the Respondent No.3 had secured 82 marks out of 100. As the Applicant has secured highest marks, he was appointed by order dated 01.01.2018. However, in the meantime, the Respondent No.3 lodged complaint with Respondent No.2 – SDO alleging that the Applicant had submitted false Certificates pertaining to Computer literacy and participation in Sports activities. In pursuance of complaint, the Respondent No.2 called report from Chakan Police Station and conducted the enquiry. In enquiry, the Respondent No.2 found that the Certificates submitted by the Applicant were false, and therefore, the marks given to him on the basis of said Certificates are required to be reduced. As such, in view of decrease in the total marks, he was found not entitled to continue to the post of Police Patil. Accordingly, the Respondent No.2 by impugned orders dated 04.01.2019 cancelled the appointment of the Applicant to the post of Police Patil and also directed for recovery of honorarium paid to him during the said period. Being aggrieved by the impugned order, the Applicant has filed the present O.A. contending that the action taken by Respondent No.2 is illegal. He contends that the Certificates submitted by him are true, and therefore, the marks given to him could not have been deducted on the complaint lodged by Respondent No.3 and also prayed for direction to continue him on the post of Police Patil.

3. The Respondent No.2 resisted the application by filing Affidavit-in-reply (Page Nos.71 to 75 of Paper Book) *inter-alia* denying the entitlement of the

Applicant to the relief claimed. The Respondent No.2 sought to justify the impugned orders dated 04.01.2019 contending that, in enquiry, it was transpired that the Certificate about Computer literacy (Certificate of MSCIT) and the Certificates issued by New English School regarding Sports activities were not found genuine, and therefore, he was not entitled to the marks earlier given to him in the selection process. Having found the Certificates false, the marks given on the basis of Certificates were rightly deducted and the appointment of the Applicant to the post of Police Patil has been rightly cancelled.

4. The Respondent No.3 has filed Affidavit-in-reply (Page Nos.46 to 55 of P.B.). He contends that, having learnt that the Applicant submitted false Certificates, he filed compliant with Respondent No.2 on 28.12.2017 and brought the said aspect to his knowledge. Accordingly, the Respondent No.2 called report from Police. In pursuance of direction issued by SDO, the Police Inspector Chakan conducted an enquiry and submitted his report, having found that the Certificates submitted by the Applicant are suspicious. On receipt of report, a show cause notice was issued to the Applicant. Accordingly, the Applicant had submitted his reply. The Respondent No.2 considered report submitted by Police and after hearing the Applicant, concluded that the Certificates issued by the Applicant were false, and therefore, his appointment to the post of Police Patil has been rightly terminated by impugned order dated 04.01.2019. With these pleadings, the Respondent prayed to dismiss the application.

5. The learned Advocate for the Applicant sought to contend that the action taken by Respondent No.2 cancelling the appointment of the Applicant on the basis of report submitted by Police is illegal, as the documents submitted by the Applicant cannot be termed 'forged documents'. In alternative submission, he contends that even if the alleged false Certificates are ignored and the marks/weightage given to the said Certificates is deducted from the total marks, in that event also, the Applicant being highest, his appointment could not have

been cancelled by the Respondent No.2. On this line of submission, he prayed to quash the impugned order dated 04.01.2019 and to restore him to the post of Police Patil.

6. Per contra, the learned P.O. supported the impugned order contending that the Applicant had submitted Certificates about Computer knowledge and Sports activities at the time of filing application, which were found forged, and therefore, the marks given for such additional qualification was rightly deducted in view of enquiry conducted by Respondent No.2.

7. Whereas, the learned Advocate for Respondent No.3 adopted the submission advanced by the learned P.O. and urged that the order passed by Respondent No.2 being of fact finding based on enquiry conducted in appropriate manner, the impugned order needs no interference.

8. The Applicant had admittedly submitted the Certificate of Computer literacy as well as about participation in Sports activities for which additional marks were given to him. The copies of those Certificates are placed on record at page Nos.16 to 21 of Paper Book. The Certificate at page No.16 purportedly issued by MKCL whereas the Certificates at page No.17 to 21 are admittedly issued by Head Master, New English School, Kalus on 5th December, 2017. As per the guidelines, where the candidate possesses Certificate of MSCIT, he is entitled to additional marks. In the present case, the perusal of statement of marks allotted to the Applicant reveals that, one mark was given to him for MSCIT. However, in fact, the Certificate at page No.16 is not the Certificate of MSCIT nor completion of any Computer Course much less duly recognized institute. All that, it is the Certificate of participation in Computer literacy event conducted by MKCL. During investigation, the Police recorded statement of Kundan Ramteke, who clarified that such Certificates are issued for participation/presence in marking event. He has further stated that it has no concern with Computer

Course nor it can be considered for additional marks in examination conducted by Government. He further stated that the design and logo appearing on Certificate at Page No.16 is of 2017, whereas the Certificate bears dated 29th October, 2006. He, therefore, stated that the Certificate at Page No.16 furnished by the Applicant is false. On the basis of Police Report and statement of Kundan Ramteke working as Manager in MKCL, Pune, the S.D.O. concluded that the Certificate tendered by the Applicant is false.

9. In fact, leaving aside the aspect of forgery, it is very much clear that the Certificate tendered by the Applicant pertains to only his participation in Computer literacy event which is marketing event conducted by MKCL and it has absolutely no relevance with the Computer knowledge or completion of Computer Course. This being the position, the Applicant would not have been entitled to additional mark given to him under the head of MSCIT.

10. As regard additional marks for Sports activities at School level, the perusal of statement of marks reveals that one mark was allotted to the Applicant on the basis of Sports activities as reflected on the basis of Certificates issued by Head Master of School Kalus which are at Page Nos.17 to 21. During enquiry, the Police recorded statement of Head Master Shri Bhalerao, who issued these Certificates. During enquiry, he stated that the Applicant himself had brought Certificate dated 06.02.1994 about the participation in Sports activities and he simply put his signature as a True Copy without verifying record of School. Thus, the Police found that the Certificates are not genuine. It is thus quite clear that those Certificates were not issued by the Head Master on the basis of School record, but Head Master simply put his signature as True Copies on the Certificates produced by the Applicant.

11. On receipt of Police Report, the Respondent No.2 issued show cause notice to the Applicant and on hearing him, passed the impugned order. As such,

the opportunity of hearing was given to the Applicant. In enquiry, he could not produce any material to show that the Certificates tendered by him are genuine. He ought to have called original record from the School or from MKCL to establish that the Certificates are genuine. However, he did not take any such steps. In fact, the enquiry conducted by Police in view of statement given by Head Master Shri Bhalerao, it is quite clear that he simply put his signature on the Certificates tendered by the Applicant without examining the same and without verifying School record. It is thus obvious that the Applicant had manipulated the Certificates only to get additional marks for Sports activities and MSCIT. Therefore, the decision of Respondent No.2 to deduct the marks given to him on the basis of such documents cannot be faulted with.

12. Indeed, the issue pertaining to submission of false Certificates being related to finding of fact as held by Respondent No.2 cannot be questioned in this O.A. and it cannot be interfered with particularly when, in O.A. also, the Applicant could not produce original record to substantiate that the documents produced by him were genuine. I, therefore, see no reason to interfere in the impugned order.

13. In so far as the submission of learned Advocate for the Applicant that, even if the additional marks given on the basis of these Certificates are deducted, then also the Applicant being highest was entitled for continuation on the post of Police Patil is concerned, this submission is fallacious. If the candidate produced false Certificates for seeking appointment to the post of Police Patil, then he incurs disqualification on the very ground of submission of false documents and in that event, even if he found obtained highest marks in Written Examination or Oral, he is not entitled to the appointment of Police Patil. Suffice to say, the submission of false documents itself incurs disqualification to the appointment on the post of Police Patil. The submission, therefore, advanced by the learned Advocate for the Applicant in this behalf holds no water.

14. The necessary corollary of aforesaid discussion leads me to sum-up that the O.A. is devoid of merit and deserves to be dismissed. However, in so far as the directions issued by Respondent No.2 for recovery of honorarium paid to the Applicant from the date of appointment till the cancellation of appointment is concerned, in my considered opinion, he having worked on the said post, the recovery of the honorarium is unsustainable. Therefore, to that extent, interference is warranted. Hence, the following order.

ORDER

- (A) The Original Application is dismissed with no order as to costs.
- (B) However, the directions given by Respondent No.2 by impugned order dated 04.01.2019 for recovery of honorarium paid to him are not sustainable and no recovery should be made.
- (C) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 24.04.2019

Dictation taken by :

S.K. Wamanse.

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