

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.807 OF 2017

DISTRICT : MUMBAI

1. Shri Nikhil Malkari Tile)
Age : 21 Yrs., Occu.: Nil,)
R/o. Block No.6, Room No.1,)
Police Head Quarter, Ashok Chowk,)
Solapur.)

2. Vijay Pralhad Khengare.)
Age : 21 Yrs., Occu.: Nil,)
R/o. S/R No.23/1/6, Gurudatta Hsg.Soc.,)
House No.652, Priya Apartment,)
Chaitanya Nagar, Dhanakwadi, Haveli,)
District : Pune.)

3. Satyavan Gangadhar Bathe.)
Age : 25 Yrs., Occu.: Nil,)
R/o. A/P. Ketkawale, Tal. Purandhar,)
District : Pune.)

4. Akash Sambhaji Sapkal.)
Age : 20 Yrs., Occu.: Nil,)
R/o. At Wanewadi, Post Someshwar Nagar,)
Murum road, Tal. Baramati, Dist. : Pune.)

5. Nilesh Dashrath Limhan.)
Age : 26 Yrs., Occu.: Nil,)
R/o. A/p. Winzar, Tal. Velhe, Dist.: Pune.)...**Applicants**

Versus

- 1) The Commissioner of Police,)
Pune, Having Office at)
Pune.)

- 2) The Additional Director General and)
Inspector General of Police)
(Training and Special Unit) in the Office)

- of Director General and Inspector)
 General of Police, (M.S.) Mumbai,)
 Having Office at Old Council Hall,)
 Shahid Bhagatsingh Marg,)
 Mumbai - 400 039.)
- 3) The Director of Sports and Youth)
 Services, (M.S.), Pune, Having office at)
 Pune - 1.)
- 4) The State of Maharashtra.)
 Through Principal Secretary,)
 Sports and Youth Services Department,)
 Having office at Mantralaya, Mumbai-32.)...**Respondents**

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

Ms. S.P. Manchekar, Chief Presenting Officer for Respondents.

CORAM : Shri Justice A.H. Joshi, Chairman
Shri P.N. Dixit, Member (A)

RESERVED ON : 31.10.2018

PRONOUNCED ON : 19.11.2018

PER : Shri Justice A.H. Joshi, Chairman

JUDGMENT

1. Heard both sides. Perused record annexed to O.A..
2. This Tribunal has decided Original Application No.610/2017 and Original Application No.204/2018. In those O.As, effect and legality of condition contained in Para/Rule 4(v) of Government decision dated 01.07.2016 requiring that the candidates must possess Certificate of Validation of Sports before last date fixed for submitting application was considered. The same point is agitated in present O.A. Therefore, reiteration of discussion and finding in that regard is not required.

3. Now, it is necessary to advert to the facts of present case, which are as follows:-

- a) Subject matter relates to recruitment to the post of Police Constable.
- b) **01.07.2016:-** Government of Maharashtra issued a Government decision dated 01.07.2016. By the said Government decision, all earlier policy decisions have been superseded, and this Government decision prescribes a condition, *denovo*, that whenever recruitment process commences, the candidate must possess on or before last date fixed for submitting application the certificate of Verification of Participation in Sports Activity.
- c) **23.02.2017:-** Recruiting Authority had issued Advertisement inviting applications.
- d) **20.03.2017** is the last date fixed for submitting application.
- e) Other facts which relate to each applicant, which are slightly different are as follows:

Name	Participation	Applied	Verified
Nikhil M. Tile (Applicant No.1)	27.11.2014 to 01.12.2014	17.03.2017	15.05.2017
Vijay P. Khengare (Applicant No.2)	27.11.2014 to 01.12.2014	09.01.2017	05.05.2017
Satyavan G. Bathe (Applicant No.3)	23/24 July, 2016	16.03.2017	05.05.2017
Akash S. Sapkal (Applicant No.4)	26 to 30 Sept., 2014	10.03.2017	05.05.2017
Nilesh D. Limhan (Applicant No.5)	23/24 July, 2016	16.03.2017	05.05.2017

4. Applicants' candidature has been declined/rejected because Applicant did not possess Verification Certificate of Participation in Sports Activity.

5. Though this Tribunal has taken a view in O.A. No. 610/2017 and 204/2018 that the condition which is imposed in Para/rule 4(v) contained in Govt. decision dated 01.07.2016 results in denial of opportunity in the matter of consideration for public employment. This Tribunal has also taken view that action of the Government taken through said Para 4(v) without reasonable and fair notice to candidates results in failure to give adequate notice to the candidates and this results in prejudice to the candidates.

6. It shall be evident from the facts narrated in Para 3 that Applicants 1, 3, 4 and 5 had applied about 23 days after advertisement and Certificates were verified much after the last date.

Applicant No.2 had applied about 40 days before the date of Advertisement and after almost two months before the last date fixed for submitting application.

7. Had it been a case that Applicants 1 and 3 to 5 had applied within close proximity of the date of Advertisement, some latitude could have been shown to the Applicant Nos.1 and 3 to 5. Though delay in undertaking verification of sports certificate is attributable to Government, on account of failure to give fair and reasonable notice to the candidates, the conduct of these four Applicants is not without fault. It is not a case that Applicants' applications for verification were pending for long time, and therefore, these Applicants could not have been blamed for their inability to secure the Certificate of Validation.

8. In the result this Tribunal finds that, the Applicant Nos. 1, and 3 to 5 are not entitled for any relief whatsoever.

9. In so far as the case of Applicant No.2 is concerned, it stands on different footings viz. as in case of O.A.204/2018. Hence, order is passed as follows:

ORDER

- (A) Original Application No.807/2017 in so far as Applicants 1, 3, 4 and 5 are concerned, is dismissed.
- (B) O.A.No.807/2017 in so far as Applicant No.2 is concerned, it is allowed in following terms.
- (C) Respondents are further directed to consider the candidature of the applicant No.2, by ignoring that his Validation Certificate is issued after the date of Advertisement, and deal his candidature in accordance with Recruitment Rules and his entitlement/eligibility based on his own merit by ignoring rule/Para 4 (v) contained in Government decision dated 01.07.2016 due to which Applicant's candidature was declined.
- (D) If Applicant stands a chance for appointment but the vacancy has been filled-in, he should be considered for appointment, if otherwise eligible and entitled, if necessary by creating supernumerary post.
- (E) Parties are directed to bear their own costs.

Sd/-
(P.N. DIXIT)
Member-A

Sd/-
(A.H. JOSHI, J.)
Chairman

Mumbai
Date: 19.11.2018
Dictation taken by:
S.K. Wamanse.