

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.998 OF 2015

DISTRICT : PUNE

Miss Kalpana Ananda Kedar.)
Age : 20 Yrs., Occu.: Nil,)
R/at : At Sakur, Tal.: Sangamner,)
District : A' Nagar.)...**Applicant**

Versus

1. The Superintendent of Police.)
Pune Rural, Chavan Nagar,)
Pashan Road, Pune – 8.)
2. The Director of Sports.)
Pune GPO, Pune – 411 011.)
3. The Joint Director.)
Sports & Youth Services Directorate,)
M.S, Pune, Central Building,)
Swargate, Pune – 1.)...**Respondents**

Mr. K.R. Jagdale, Advocate for Applicant.

Ms. N.G. Gohad, Presenting Officer for Respondents.

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J
SMT. MEDHA GADGIL, MEMBER-A**

DATE : 22.06.2021

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

JUDGMENT

1. The Applicant has challenged the order dated 27.08.2014 issued by Respondent No.3 – The Joint Director, Sports & Youth Services Directorate, Pune whereby Sports Certificates of the Applicant are invalidated and further to seek direction to the Respondent to reappoint her on the post of Police Constable under ST Female Sports category, invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. In nutshell, the facts giving rise to this O.A. are as under :-

In pursuance of Advertisement dated 20.04.2014 issued by Respondent No.1 – Superintendent of Police, Pune Rural, the Applicant had applied for the post of Police Constable under ST Female Sports category. As per eligibility criteria, the height of a candidate should have been not less than 155 cms. for female and for availing reservation for Sports category, a candidate is required to produce requisite Sports Certificate. At the end of process, the Applicant having secured 119 marks, she was selected and appointed on the post of Police Constable by appointment order dated 22.08.2014. The Sports Certificates (Page Nos.11 and 12 of Paper Book) submitted by the Applicant were forwarded to Respondent No.3 – Joint Director, Sports & Youth Directorate, Pune for validation. However, Sports Certificates tendered by the Applicant were found not valid, since it was not in compliance of G.Rs. dated 30.04.2005 and 18.11.2006. Therefore, a Show Cause Notice was given to the Applicant on 02.02.2015 as to why her appointment should not be terminated to which she has submitted her explanation *inter-alia* contending that her Sports Certificates are valid. However, Respondent No.1 by order dated 02.05.2015 terminated her service on the ground that Sports Certificates tendered by her are invalid and secondly, her height being 153 cms. is less than required height of 155 cms. It is on this background, the Applicant has filed the present O.A. challenging

communication dated 27.08.2014 issued by Respondent No.3 invalidating her Sports Certificates and seeks direction for reappointment on the post of Police Constable.

3. The Respondents resisted the O.A. by filing Affidavit-in-reply inter-alia contending that Sports Certificates tendered by the Applicant are invalid since those pertain to Participation of Sports conducted by Tribal Department and not by authorized forum/organization in terms of G.R. dated 30.04.2015 read with G.R. dated 18.11.2006. Apart, the Applicant's height was found 153 cms. in re-measurement, which was less than requisite height of 155 cms. and she is rightly terminated.

4. Shri K.R. Jagdale, learned Advocate for the Applicant sought to assail the impugned communication *inter-alia* contending that though the Sports in which Applicant had participated were organized by Tribal Department but since the Certificates (Page Nos.11 and 12 of P.B.) has been signed by Deputy Director, Sports and Youth Services, Mumbai, it is valid. He has further pointed out that Director, Directorate of Sports and its services, Central Building, Maharashtra State, Pune is affiliated unit of School Games Federation of India in terms of G.R. dated 18.11.2006, and therefore, it should have been accepted to qualify for 5% reservation under Sports category. As regard less height, he seeks direction to re-measurement the height of Applicant and to appoint her on the post of Police Constable. On this line of submission, he submits that the impugned order invalidating Sports Certificates of the Applicant are illegal and prayed to allow the O.A.

5. Per contra, Ms. N.G. Gohad, learned Presenting Officer sought to support the impugned communication inter-alia contending that Sports Certificates relied by the Applicant are not in consonance with G.Rs. dated 30.04.20005 and 18.11.2006 and secondly, the height of the Applicant being less than the requisite height, she is not eligible for appointment on the post of Police Constable.

6. Indisputably, in terms of Advertisement dated 30.04.2014 as well as G.R. dated 30.04.2015, 5% posts were reserved for Sports category. The Applicant was selected from ST Female Sports category. The eligibility for Group 'C' and 'D' posts for reservation under Sports category in terms of G.R. dated 30.04.2005 is as under :-

“गट क व ड साठी अर्हता

सदर पदांसाठी त्या त्या खेळांच्या वैयक्तिक अथवा सांघिक क्रीडा स्पर्धांमध्ये किमान राज्य अजिंक्यपद स्पर्धेत प्रथम, द्वितीय व तृतीय स्थान प्राप्त करणारा किंवा सुवर्ण, रौप्य किंवा कास्य पदक प्राप्त करणारा खेळाडू. राज्य अजिंक्यपद स्पर्धा या सदर खेळांच्या महाराष्ट्र ऑलिंपिक असोसिएशनशी संलग्न असलेल्या अधिकृत राज्य संघटनेने आयोजित केलेल्या असाव्यात अथवा महाराष्ट्र ऑलिंपिक असोसिएशनने स्वतः आयोजित केलेल्या असाव्यात. किमान प्राविण्यापेक्षा उच्च स्तरावरील क्रीडा प्रावीण्य मिळविणा-या उमेदवारास प्राधान्य असावे. वैयक्तिकरित्या किंवा आमंत्रित स्वरूपाच्या स्पर्धांमध्ये भाग घेतलेल्या खेळाडूंचा यासाठी विचार करता येणार नाही.”

7. Thereafter, the Government had issued another G.R. dated 18.11.2006 whereby eligibility criteria and requisite conditions were expanded in following terms :-

“शासन निर्णय :- शासन निर्णय दिनांक ३० एप्रिल, २००५ व दिनांक २१ जून, २००६ अन्वये गट क व ड च्या पदांसाठी निश्चित केलेल्या क्रीडाविषयक अर्हतेमध्ये खालील अर्हता ही नव्याने समाविष्ट करण्यात यावी.

अ) भारतीय खेळ प्राधिकरणाने आयोजित केलेल्या राष्ट्रीय व राज्य स्तरावरील ग्रामीण व महिला क्रीडा स्पर्धांतील प्रथम, द्वितीय, तृतीय स्थान प्राप्त किंवा सुवर्ण, रौप्य, कास्य पदक प्राप्त खेळाडू.

ब) भारतीय शालेय खेळ महासंघ यांनी आयोजित केलेल्या राष्ट्रीय व राज्य स्तरावरील शालेय क्रीडा स्पर्धांतील प्रथम, द्वितीय, तृतीय स्थान प्राप्त किंवा सुवर्ण, रौप्य कास्य पदक प्राप्त खेळाडू.”

8. In the present case, the Applicant is harping upon Clause (b) as reproduce above. As per this Clause, a candidate must have secured 1st, 2nd and 3rd position or must have one gold, silver or bronze medals in the Sports organized by School Games Federation of India on national and State level. As such, the Sports must have been organized by School Games Federation of India. True, as per communication issued by School Games Federation of India (Page No.55 of P.B.) for Maharashtra, Director, Directorate of Sports and Youth Services, Central Building, M.S, Pune – 1 is declared one of the affiliated units of School Games Federation of India. However, it would not render it valid. In terms of G.R. dated 18.11.2006, the Sports must have been organized by concern

authority only so as to hold the candidate eligible for reservation provided he/she has secured 1st, 2nd or 3rd position or won gold, silver or bronze medal.

9. Now turning to the Certificates tendered by the Applicant, it reveals that the said Sports were organized by Tribal Development Department in 2010-2011 at State level. The Applicant stood first in 800 meters running and stood second in 1500 meters running. The Sports were conducted from 11.02.2011 to 13.02.2011 by Tribal Development Department. The Certificates has been signed by Commissioner, Tribal Development Department, Additional Commissioner, Tribal Development Department, Thane and Deputy Director, Sports and Youth Services Directorate. Material point is that those Sports were organized by Tribal Development Department and not by School Games Federation of India in terms of Clause (b) of G.R. dated 18.11.2006.

10. As stated above, by 1st G.R. dated 30.04.2005 for reservation under Sports category, the Sports must have been organized/conducted by authorized State level Organization affiliated to Maharashtra Olympic Association. Thereafter, by G.R. dated 18.11.2006, by way of amendment, Sports conducted by School Games Federation of India at National level or State level has been included in the list of Organizations. Thus, in terms of G.R. dated 18.11.2006, the Sports must have been conducted by School Games Federation of India at National level or State level. Whereas, in the present case, the Sports in which Applicant participated was conducted by Tribal Development Department and not by School Games Federation of India or through its affiliated unit viz. Sports & Youth Services Directorate, M.S, Pune, Central Building, Pune. Only because Sports Certificates seem to have been signed by Deputy Director, Sports and Youth Services Directorate that itself hardly makes any difference and on that basis only, the said Sports Certificate cannot be termed valid Sports Certificate in terms of

G.R. dated 18.11.2006. The *sine-qua-non* for eligibility criteria is that the Sports must have conducted by School Games Federation of India or through its affiliated viz. Director, Sports & Youth Services Directorate, Central Building, Pune. Whereas, admittedly, the Sports in which Applicant participated was organized by Tribal Development Department. This being the factual position, the Sports Certificates issued by Tribal Development Department cannot be said in consonance with G.R. dated 18.11.2006.

11. Material to note that later by G.R. dated 22.04.2015, the Sports conducted by Tribal Development Department has been included in the list of Organizations. Material to note that this G.R. has been brought into force with prospective operation, as specifically mentioned in G.R. dated 22.04.2015. There is specific mention that the said G.R. would apply w.e.f. 2015-2016 academic year. As such, this G.R. dated 22.04.2015 is of no avail to the Applicant for the Sports activities conducted in 2011.

12. Indeed, the very fact that for the first time, by G.R. dated 22.04.2015, the Sports conducted by Tribal Development Department at State level has been included in eligibility criteria itself fortify the conclusion that earlier, the Sports conducted by Tribal Development Department were not in terms of G.R. dated 18.11.2006, and therefore, by way of amendment only, in 2015, Sports conducted by Tribal Development Department were included in the list of eligible Organizations. As such, there is no escape from the conclusion that at the relevant time, the Sports conducted by Tribal Development Department were not qualified for Sports reservation. Suffice to say, in terms of G.R. dated 18.10.2006 which governs the present issue, the condition precedent was that the Sports must have conducted by School Games Federation of India at National or State level. Whereas, by earlier G.R. dated 30.04.2005, the Sports must have been conducted by authorized Organizations duly affiliated to Maharashtra Olympic

Association or by Maharashtra Olympic Association itself. In that situation only, the candidate would be eligible for Sports reservation. Whereas, in the present case, the Sports in which Applicant participated were conducted by Tribal Development Department. This being the position, the Respondent No.3 – Joint Director has rightly invalidated the Sports Certificates of the Applicant by communication dated 27.08.2014 having found that it is not in consonance with G.Rs. dated 30.04.2005 and/or 18.11.2006.

13. Apart, even assuming for a moment that Sports Certificates issued by Tribal Development Department and relied by the Applicant were valid, in that event also, the Applicant being of 153 cms. height was not eligible for appointment on the post of Police Constable. Indisputably, as per Advertisement, a female candidate must have minimum 155 cms. height for the post of Police Constable. Whereas, in the present case, the Applicant's height was found 153 cms. Material to note that her height was again re-measured and as per letter dated 24.04.2015 and it was found 153 cms. which is less than requisite height. Needless to mention that considering the duties and responsibilities vis-à-vis physical fitness, 155 cms. height for female candidate has been prescribed and there could be no concession or relaxation for the same. Curiously, the Applicant has not filed any record much less authenticate documents in the form of Medical Certificate, etc. to counter that her height is 155 cms. This being the position, the question of giving direction again to the Respondents to re-measure the height of the Applicant does not survive. The relief sought for re-measurement is nothing but to continue the litigation despite no legal ground which has to be discouraged.

14. For the aforesaid discussion, the inevitable conclusion is that the challenge to the impugned communication invalidating Sports Certificates is devoid of merit and O.A. is liable to be dismissed. Hence, the following order.

ORDER

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

Sd/-
(MEDHA GADGIL)
Member-A

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

Mumbai

Date : 22.06.2021

Dictation taken by :

S.K. Wamanse.

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