

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 359 OF 2014

DISTRICT: - AURANGABAD.

Suvarna d/o VinayakWagh,
Age:- 25 years, Occu: Nil,
R/o Building No. 29/13, N-10,
Police Colony, CIDCO, T.V. Center,
Aurangabad.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
Through Principal Secretary,
Home Department, Mantralaya,
Mumbai 400 032.
2. Assistant Police Commissioner (Admn.)
Aurangabad City, Tq. & Dist.
Aurangabad.
3. Superintendent of Police,
Aurangabad, Dist. Aurangabad.
4. Anita MahajanJarwal,
(Chest No. 6216)
Age Major, Occu: Nil,
R/o Aurangabad, C/o
Assistant Police Commissioner
(Admn.) Aurangabad City, Taluka
and Dist. Aurangabad.

5. KalyaniSuryakantBhogal,
(Chest No. 6125)
Age Major, Occcu. Nil,
R/o Aurangabad C/o Assistant
Police Commissioner (Admn.)
Aurangabad City, Taluka and
District Aurangabad. .. RESPONDENTS.

APPEARANCE : Shri M.B. Kolpe – learned Advocate,
holding for Shri V.B. Deshmukh –
learned Advocate for the applicant.

: Shri M.P. Gude – learned Presenting
Officer for the respondent Nos. 1 to 3.

: None appears for respondent No. 4.

: Shri S.S. Dambe – learned Advocate
for respondent No. 5.

**CORAM : HON’BLE SHRI RAJIV AGARWAL,
VICE CHAIRMAN (A)**

AND

**HON’BLE SHRI J.D. KULKARNI,
MEMBER (J)**

DATE :

J U D G E M E N T**[Per :Hon'bleShri J.D. Kulkarni, Member (J)]**

The applicant viz. Suvarna d/o VinayakWagh, has applied for the post of Police Constable in response to the advertisement dated 29.4.2014. The advertisement was issued by the Assistant Police Commissioner (Administration), Aurangabad City. Initially applications were called from the eligible candidates for filling up 215 posts. Vide corrigendum dated 10.5.2014, the said posts were increased. The applicant belongs to NT-(D) category. However, she applied from Open category. Her application was accepted by the respondent authorities. The applicant was however, shown from NT -(D) category in the list, published by the respondents. In fact, her name should have been included in the Open Category. She, therefore, requested the respondents on 4.7.2014 that her name be included in the candidates eligible from Open category and that she was wrongly shown in the NT-(D) category.

2. It seems that the applicant appeared for the written examination and secured 40 marks. Thereafter, the respondent No. 2 published a general merit list and in the said list the name of the applicant was at Sr. No. 2780 and it was shown that she has secured 112 marks. On 11.7.2014 the respondent No. 2 published a select list and surprisingly the candidates, who have secured less marks than the applicant were selected and were shown at Sr. Nos. 190 & 191 in the final select list. The applicant has, therefore, filed the present Original Application claiming direction that the select list dated 11.7.2014 published by the respondent No. 2 for the post of Police Constable be quashed and set aside and the respondent No. 2 be directed to consider the name of the applicant from Open Category (Women) and that the respondent No. 2 be restrained from issuing appointment orders in favour of the selected candidates.

3. During the pendency of this Original Application the respondent No. 4 viz. Anita MahajanJarwal, and respondent No. 5 viz. KalyaniSuryakantBhogal, who

allegedly to have been secured less marks than the applicant have been added as party respondents.

4. Respondent No. 2 resisted the present Original Application. It is stated that as per the advertisement age limit for filling up application from Open candidate, condition was that the candidate should not above the age of 25 years as on 30.4.2014. The applicant has completed 25 years of age prior to that date and, therefore, she was not eligible for being considered from Open Category. It is stated that at the time of verification, the applicant gave consent in writing that she was ready to appear for the post in the category of Vanjari i.e. NT-(D) Category, instead of Open Category and, therefore, she was allowed to participate in the recruitment process. It is stated that the G.R. dated 16.3.1999 issued by the Government is not applicable.

5. We have heard Shri M.B. Kolpe, learned Advocate holding for Shri V.B. Deshmukh – learned Advocate for the Applicant, Shri M.P. Gude – learned Presenting Officer for respondent Nos. 1 to 3 and Shri S.S. Dambe – learned

Advocate for respondent No. 5. None appears for respondent No. 4.

6. We have also perused the application, affidavit, affidavit in reply filed by the respondents and various documents placed on record by the respective parties.

7. It is admitted fact that the applicant belongs to Vanjari Caste, which comes under the category of NT -(D). However, it is admitted that the applicant has applied from Open Category. This can be seen from the initial application from submitted by the applicant for the post of Police Constable. The copy of the said application form is placed on record at p.b. page-18 (Annexure 'A-2'). In the said application form, she has mentioned the category as "Open" and caste as "Vanjari". Thus, she has not claimed any reservation.

8. Learned Presenting Officer has invited our attention to the advertisement issued by the respondent No. 2, a copy of which is placed on record at Annexure 'A-1' at p.b. page-16. As regards eligibility of the candidates, so far as

age is concerned, it is specifically mentioned in paragraph No. 5 (i) (a) that the maximum age limit of the candidate appearing from Open Category shall not exceed 25 years as on 30.4.2014. The said clause reads as under: -

“५. (i) पोलीसदलातीलपोलीसशिपाई यापदावरीलनिवडीसाठीउमेदवारांकडे खालीलनमूद वय, शैक्षणिक व शारीरिकपात्रताअसणेआवश्यक आहे :-
अ. वय-दिनांक ३०/०४/२०१४ रोजी वय कमीतकमी १८ वर्षे व जास्तीतजास्त २५ वर्षे (मागासवर्गीय उमेदवारांच्याबाबतीत शासनानेवेळोवेळीठरविलेल्या धोरणानुसारउच्चतमवयोमर्यादितसुट देय राहिल.”

From the application form filed by the applicant, it seems that her date of birth is 30.4.1989 and, therefore, she has completed age of 25 years on 29.4.2014. Thus, admittedly as on 30.4.2014 the applicant was more than 25 years of age and, therefore, she was not eligible for being considered from Open Category.

9. Learned Advocate for the Applicant submits that the applicant's application was accepted from Open Category and, therefore, she was allowed to participate in the recruitment process. However, this does not seem to be correct.

10. In the reply affidavit, the respondent No. 2 has stated that when the applicant was called for verification of documents it was noticed that she has crossed 25 years of age and, therefore, she was not eligible from Open Category. At that time the applicant has given consent in writing that she may be allowed to take part in the recruitment process from Vanjari caste i.e. NT-(D) category. The respondents have placed on record the verification form bearing signature of the applicant, in which she has mentioned her caste as "Vanjari" and category as "NT-(D)". The copy of the said form is placed on record at p.b. page Nos. 181 & 182 and, therefore, she was found fit to participate in recruitment process from NT-(D) category. In fact, this is also not proper as once the candidate has applied from a particular category, he or she cannot be allowed to change the category. It seems that the applicant has given in writing that she was being considered from NT-(D) category and she was allowed to appear for the test. Such undertaking is signed by the applicant as seems from the entry on the backside of verification form at p.b. page-182.

11. In view of the aforesaid facts, it seems that the applicant was knowing fully well that she was not eligible for being considered from Open Category since she has crossed 25 years of age as on 30.4.2014. This fact seems to have come to the knowledge of authority at the time of verification of documents. When it was noticed that the applicant was not eligible since she has completed 25 years of age, the applicant filled another attestation form, in which she had described herself as "NT-(D)" category and then took part in the process of recruitment as "NT-(D) candidate. However, as per the merit Applicant is not eligible for being appointed from NT-(D) category, but if she is considered from Open Category, she may be entitled to appointment and, therefore, the applicant is now claiming that she shall be considered from Open Category.

12. For the reasons stated in the foregoing paragraphs, it will be thus crystal clear that for the Open Category, the applicant is age barred, since she has completed 25 years of age as on 30.4.2014 and, therefore, she is not entitled to be considered from Open Category.

13. So far as applicant's claim from NT-(D) category is concerned, it seems that she has obtained only 112 marks and her claim cannot be considered on merits from NT-(D) category, and therefore, the applicant is not eligible for being considered for appointment to the post of Police Constable either from Open Category or from NT-(D) Category.

14. We, therefore, do not find any merit in the present Original Application and hence, the following order: -

ORDER

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

MEMBER (J)

VICE CHAIRMAN (A)

O.A.NO.359-2014(hdd)-2016