

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 189/2010 (D.B.)**

Hemant S/o Marotrao Mahajan,  
Age about 28 years, Occ. Music Teacher,  
R/o Kumare Layout, Sindhi (Meghe),  
Tah. & Dist. Wardha.

**Applicant.**

**Versus**

- 1) State of Maharashtra  
Through Secretary, Ministry of Home,  
Mantralaya, Mumbai-32.
- 2) Superintendent of Police,  
Wardha.
- 3) Shri Ujwal S/o Diliprao Dahale,  
Age 29 years, Occ. Service,  
R/o Police Head Quarter,  
Wardha.
- 4) The Director General of Police,  
M.S., Near Regal Theater Shahid Bhagat Singh Marg,  
Kolaba, Mumbai-400 001.

**Respondents.**

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**Shri D.R.Bhojar, Id. counsel for the applicant.**  
**Shri A.M.Khadatkar, Id. P.O. for respondent nos. 1, 2 & 4.**  
**Shri B.Kulkarni, Id. counsel for the R-3.**

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**Coram :- Shri Shree Bhagwan, Vice-Chairman and**  
**Shri Justice M.G.Giratkar, Member (J).**

**Dated :- 31/01/2022.**

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**JUDGMENT**

**Per : Vice Chairman.**

Heard Shri D.R.Bhojar, Id. Counsel for the applicant, Shri  
A.M.Khadatkar, Id. P.O. for the Respondent nos. 1, 2 & 4 and Shri  
B.Kulkarni, Id. counsel for the Respondent no. 3.

2. The applicant applied for 'Bandsman', his application is on record (A-3, Pg. No. 17) post in Police Department as per advertisement published on 02.02.2010 by respondent no. 2 in 'Bandsman Category'. As per advertisement there were 4 posts:- 1 for S.C., 1 for O.B.C. and 1 for Open and 1 for Open Female. So, total 4 posts were advertised.

3. The applicant is working as Adhoc Musical Teacher at Gandhi City, Public School at Wardha and he conducts various Musical Classes. He applied for 'Bandsman' post in response to advertisement by respondent no. 2, dated 02.02.2010. Admittedly, the qualification prescribed for the said post was that the candidate has sound knowledge of Musical Instruments and experience in playing the same. The candidate has qualified 10 class examination from recognised board. Candidate shall not be more than 25 years of age as on 28.10.2010. As per para 4.5 of the O.A., it was specifically stated in the advertisement in clause of 'Bandsman' that candidate should have play the 'Bandsman' and thereafter he could participate in further process. Accordingly, applicant applied on 15.03.2010 and appeared in the examination. Total 120 candidates were appeared in the 'Bandsman' as per para no. 4.7 of the O.A.. Respondent no. 2 shortlisted the candidates. Thereafter respondent no. 2 took the test of playing the instrumentation of remaining candidates and the candidates could gave best performance to

the respondent no. 2 and they are selected for the further process. The list of Band test is at page nos. 68 to 71. After participating in the procedure when applicant did not get selected, this O.A. was filed on 03.04.2010. Since applicant had already not crossed the Bench mark of 09 marks in Band test; respondents have also mentioned and as argued by Id. counsel for the applicant that out of 20 candidates, who applied after Band test only selected candidates were taken who had scored above Bench Mark of 9 marks and above. Since applicant had scored only 8 marks i.e. below the Bench mark and passing the Band test was necessary for the post, applicant cannot be carried out for this post.

4. The applicant applied for the said post. Though Band test was not recorded but merit list was published at A-5, Pg. No. 20 which is reproduced below:-

Chest No.	Name	Category	Physical out of 100	Objective out of 60	Essay out of 15	Oral out of 25	Total out of 200
3637	Sandip Ramesh Gadge	Open	81	54	8	10	153
3639	Ramdas Daulatrao Randive	Woman changed to male open	85	49	6	10	150
3632	Ujwal Diliprao Dhale	O.B.C.	68	36	6	10	120

3636	Pravin Bhimrao Chavan	S.C.	74	53	5	11	143
Applicant							
3628	Hemant Marotrao Mahajan	O.B.C.	67	43	7	Not known marks out of oral test	117 out of 175 (Marks of oral tests not included.)

5. Respondents have filed reply on 02.06.2010 and in reply para no. 4 on page no. 45 they have submitted that cut off marks applied for Band test was 09 marks. As per the selected list, the candidate at Sr. No. 1 (who is at Sr. No. 28 at band test, pg. no. 70) has got 10 marks, candidate at Sr. No. 2 (who is at Sr. No. 17 at band test, pg. no. 69) has got 9 marks, candidate at Sr. No. 3 i.e. respondent no. 3 (who is at Sr. No. 1 at band test, pg. no. 68) has got 16 marks i.e. highest in the Band test and applicant (who is at Sr. No. 2 at band test, pg. no. 68) has got 8 marks. The final selection list/comparative analysis of marks of selected candidates. The result of Band test which is at Annexure-R-1, Pg. No. 68 to 71 are examined by us. In the selection list of the bandsman, the applicant has scored least marks out of other candidates and he has scored less than Benchmark i.e. '9 marks' as per reply of respondents (pg. no. 45) as prescribed for Bandsman test.

6. The argument canvassed in the pleading that Bandsman test marks is not added in the final list has no substance. Since applicant has

lowest mark in Bandsman test in comparison to other four selected candidates, so even if Band test mark is added in the final list at A-5, the position would have been the same, applicant would not have come in the zone of selection.

7. In view of discussions in above paras, following order:-

### **ORDER**

The original application is dismissed with no order as to costs.

**(M.G.Giratkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Vice-Chairman.**

**Dated** :- 31/01/2022.

\*aps.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 31/01/2022.

Uploaded on : 01/02/2022.