

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.414/2016

Smt. Madhavi w/o Janardhan Gaikwad,
Aged about 24 years, Occ. Household,
R/o Nandani, Tah. Narkhed, Dist. Nagpur

..Applicant

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai 400032
- 2) Sub Divisional Magistrate,
Katol, District Nagpur
- 3) Tahsildar, Tahsil Office, Narkhed,
District Nagpur
- 4) Suresh Laxmanrao Dhore,
Police Patil, R/o Jalalkheda,
Tah. Narkhed, District Nagpur

..Respondents

Smt. B.M. Kesare holding for
Shri N.S. Khandewale - Advocate for the Applicant
Shri P.N. Warjurkar – Presenting Officer for Respondents No.1 to 3
Shri S.M. Nafde - Advocate for Respondent No.4.

Coram :- Hon'ble Shri A.D. Karanjkar, Member (J)

Dated :- 25th October 2018.

J U D G M E N T

Heard Smt. B.M. Kesare, learned Advocate holding for Shri N.S. Khandewale, learned Advocate for the Applicant, Shri P.N. Warjurkar, learned Presenting Officer for Respondents No.1 to 3 and Shri S.M. Nafde, learned Advocate for Respondent No.4.

2. In this OA the applicant is challenging the action of the respondents appointing respondent no.4 as Police Patil of village Nandini, Taluka Narkhed, District Nagpur.

Facts in brief:

3. Advertisement was published for filling the vacant post of Police Patil. Accordingly, the applicant submitted application for the post. The applicant has passed B.A. Part-I examination and her additional qualification is that her father in law was Ex. Police Patil. It is contention of the applicant that respondent no.4 also applied for the post of Police Patil of village Nandini. Both were called for the written examination. In the written examination the applicant scored 51marks out of 80 and respondent no.4 scored 44 marks out of 80. It is the grievance of the applicant that when she noticed result of the examination she found that respondent no.4 was declared successful in the examination and respondent no.2 appointed him as Police Patil of village Nandini.

4. It is submitted by the applicant that objection was raised to the appointment and selection of respondent no.4 on the ground that he was not resident of village Nandini. As the respondent no..4 was resident of

Jalalkheda, therefore, it was necessary for the respondents to reject the respondent no.4 at the threshold. It is submitted that respondents did not consider the objection. The second submission is that father-in-law of the applicant was Ex. Police Patil and, therefore, preference should have been given to her over respondent no.4. Third submission of the applicant is that her educational qualification was more than the respondent no.4 and, therefore, she was entitled to be appointed on the post. The fourth submission is that the respondents did not show the oral marks obtained in the examination at any time and consequently the recruitment process was not fair and recruitment of respondent no.4 is outcome of bias and, therefore, it is liable to be set aside. It is prayed by the applicant that appointment of the respondent no.4 as Police Patil of village Nandini be set aside and applicant be appointed as Police Patil of village Nandini.

5. After service of notice the respondent no.2, the appointing authority, submitted affidavit in reply. It is at page 52 of the paper book. It is contended by respondent no.2 that the respondent no.4 submitted the documents and after scrutiny it revealed that the respondent no.4 was also resident of Village Nandini and therefore, there is no substance in the contention that respondent no.4 was resident of Jalalkheda.

6. It is contended by respondent no.2 that the applicant did not disclose the true facts of the case. In the written examination the applicant scored 51 marks and respondent no.4 scored 44 marks but she did not disclose how much marks were scored by her in the oral interview. According to

respondent no.2, as per GR if two candidates scored same marks, then it was necessary to consider relationship of the candidate with the Ex. Police Patil and the educational qualification of the candidate. It is submitted that in the present case as the total number of marks obtained by respondent no.4 were more than the total number of marks obtained by the applicant, d therefore, he was appointed and there was no flaw in the recruitment process. Only because the applicant is not appointed consequently to harass respondent no.4 and the public authorities, this OA is filed.

7. The respondent no.4 has submitted written reply at page 88 of the paper book and justified the action of the respondent no.2. The respondent no.4 has submitted that he owns and possesses immovable property at village Nandini, Taluka Narkhed and he also produced the documents in support of his contention. It is then submitted that there is no substance in this OA and it is liable to be dismissed.

8. I have heard oral submissions on behalf of the applicant, respondent no.2 and respondent no.4. So far as the first contention that respondent no.4 is not resident of Nandini is concerned, I would like to point out that respondent no.4 has produced certificate issued by Village Panchayat that respondent no.4 is resident of Ward No.1, Nandini. The card issued by the Election Commission of India, which is at page 105 of the paper book exhibits that respondent no.4 is resident of Nandini, Taluka Narkhed. The 7X12 extract shows that the respondent no.4 is owner and in possession of field property. Thus, it is seems that respondent no.4 owns immovable property at village Nandini. It is possible that a person may own and

possesses several properties at different villages and towns. In this situation, I do not see any merit in the submission of the applicant that respondent no.4 was not eligible to appear for the examination.

9. Secondly, I would like to point out that in case Arun Tukaram Patil Vs. State of Maharashtra & Ors, 1993(3) Mh.L.J. 594 and in case of Rajesh Krishna Kale Vs. State of Maharashtra & Ors., 2015(4) Mh.L.J. 799, it is held that possession of landed property is not the criteria for eligibility in the matter of appointment as Police Patil under the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968. Therefore, I do not see any merit in the contention of the applicant.

10. So far as second question that the applicant's father in law was Ex. Police Patil and, therefore, preference should have been given to her over the respondent no.4 is concerned, I would like to point out that in GR dated 22.8.2014 in para 5 it is mentioned that if two candidates scored same marks, then the first preference shall be given to the heir of Police Patil, the second clause says, the preference be given to the candidate possessing higher educational qualification. In the present case as respondent no.4 scored more marks than the applicant, therefore, there appears no substance in the contention that she was entitled for the preference because she was possessing more educational qualification and her father in law was Ex. Police Patil.

11. So far as the last contention that undue favour is shown to respondent no.4 is concerned, I would like to point out that there are no

specific allegations as to irregularities in the written examination or undue favour was shown to respondent no.4 at the time of written examination. In absence of specific allegations it is not necessary to call answers sheets for verification. So far as the marks obtained by the applicant and the respondent no.4 in oral examination are concerned, the normal presumption is that the interview committee, fairly judged and assessed the performance of each candidate. The tribunal, in the absence of specific well founded allegations can not presume that the interview committee was dishonest or biased. The presumption is that unless contrary is proved, the public authority acted honestly as per the Law. In the application there is no whisper, why respondent no.2 had reason to show undue favour to the respondent no.4 or the respondent no.2 was prejudiced against the applicant. In order to dislodge the presumption, there must be some reasonable evidence to show that there were some reasons available to the public officer to show favour to some one. In the present case, in absence of specific allegations and evidence, I am unable to accept the submission of the applicant in this regard.

12. The applicant has filed at page 133 of the paper book the consolidated mark list of all candidates. The name of the applicant is at Sr. No.360. The applicant scored 51 marks in the written examination and 8 marks in the oral interview. The name of respondent no.4 is at Sr. No.362. He scored 44 marks in the written examination and 16 marks in the oral interview. Thus, it seems that respondent no.4 scored 60 marks and

applicant scored 59 marks. Therefore, apparently as the respondent no.4 scored more marks he was selected for the post and appointed.

13. The Ld. counsel for the applicant submitted that the procedure was unfair and therefore, record of the examination be called including the answer sheets. I do not see any merit in the submission, for the reasons discussed in above paras. It seems that in the OA applicant has mentioned that she was not aware as to how much marks were obtained by her in the oral interview. Whereas the merit list at page 133 of the paper book bears date 20.6.2016. The OA is presented by applicant on 23.6.2016. It is not cleared by the applicant when she received copy of this document. Therefore, inference can be drawn that applicant was in possession of the complete merit list when she presented the OA. Keeping in view all these factors, I do not see any merit in the OA. In the result, I pass the following order.

ORDER

Original Application stands dismissed. No order as to costs.

(A.D. Karanjkar)
Member (J)