

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 637/2019 (D.B.)**

Devendra S/o Sheshraoji Kemekar,  
Aged 33 years, Occ. Nil,  
R/o C/o Ashokrao Kashirao Amrute,  
Vidya Colony, Morshi, Tah. Morshi,  
District - Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
- 2) Special Inspector General of Police,  
(Establishment), Office of Director  
General of Police, Mumbai,  
Shahid Bhagatsingh Road,  
Kulaba, Mumbai-400 001.
- 3) Superintendent of Police (Rural),  
Amravati, Near Collector office,  
Camp Area, Amravati-444 602.

**Respondents.**

---

**Shri N.S.Warulkar, Id. Advocate for the applicant.**

**Shri M.I.Khan, Id. P.O. for the respondents.**

---

**Coram :- Shri Shree Bhagwan, Vice-Chairman and  
Shri M.A.Lovekar, Member (J).**

**Dated :- 24/12/2021.**

---

**JUDGMENT**

**Per : Member (J).**

Heard Shri N.S.Warulkar, Id. Counsel for the applicant and  
Shri M.I.Khan, Id. P.O. for the Respondents.

2. The question involved in this application is whether the respondent department was justified in declining to appoint the applicant to the post of Sub-Inspector of Police (P.S.I. for short).

3. Facts leading to this application are as follows. In response to the advertisement (A-15) issued by M.P.S.C. the applicant appeared for preliminary competitive examination. He cleared it. He then cleared the main examination as well. He received the letter (A-2) dated 23.04.2015 that his name was recommended for undergoing training commencing from 27.04.2015. He, along with other successful candidates, was medically examined by Civil Surgeon, General Hospital, Amravati on 23.04.2015. By issuing certificate (pg. no. 36) opinion was given in respect of the applicant as "Colour Blindness Both Eyes" and that he was "Unfit". By letter (A-3) dated 26.05.2015 the applicant requested respondent no. 3 for his medical examination by the medical board at Yavatmal. The respondent department acceded to this request and accordingly issued letter (A-6) to the Medical Board, Shri Vasant Rao Naik Medical College, Yavatmal. It was mentioned in this letter that Civil Surgeon, Amravati had certified that the applicant was colour blind by both eyes. It was specifically written in the letter that the Medical Board was to medically examine the applicant and certify whether or not he was eligible to be appointed to the post of P.S.I.. The Medical Board,

Yavatmal examined the applicant and issued certificate (A-8) on 28.09.2015/01.10.2015. Column 6 of this certificate pertained to visual defects. The Board Members kept it blank. Board's final medical opinion was that the applicant was "fit for employment". By letters (A-9, A-10) the applicant requested respondent no. 2 to send him for training as he was certified to be "Fit". Respondent no. 2, by letter dated 20.11.2018 (A-11) requested the Medical Board at Yavatmal to again examine the applicant as said Board had not recorded any opinion about colour blindness of the applicant and also because three years had elapsed since his previous medical examination by the said Board. Thereafter, yet another medical examination of the applicant by the Department of Ophthalmology, Government Medical College, Nagpur was scheduled on 25.01.2019. The Board of Referees, G.M.C., Nagpur issued certificate (at Pg. No. 37) that the applicant was "Fit for table work only on account of colour blindness". In the column of remarks it was written "Colour Vision Defective on Lantern Test". The respondent no. 3 communicated this to respondent no. 2 vide annexure-13. Respondent no. 2 replied vide annexure-14 that in view of Medical opinion of the Board of Referees, G.M.C., Nagpur the applicant could not be appointed to the post of P.S.I.. The applicant sought information under the R.T.I. Act from the respondent department about the outcome of his medical examination. He was then informed about it. The applicant has impugned this

communication/ letter dated 27.05.2019 issued by respondent no. 2 (A-14) in this application, and has sought, further subsequently reliefs.

4. Reply of respondent no. 3 is at pg. nos. 38 to 50. According to the respondent no. 3, because of colour blindness the applicant was not eligible for being appointed to the post of P.S.I., this conclusion was based on certain provisions under the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 (which we will reproduce and deal with later on and hence the applicant was not entitled to any relief.

5. In his Rejoinder (at page nos. 68 to 71) the applicant relied on the advertisement (A-15) and "Police Sub Inspector (Recruitment) Rules 1995" as well as the amendment carried out thereto, to contend that neither the advertisement nor the Recruitment Rules stipulated disqualification on account of colour blindness and hence the impugned order could not stand.

6. By filing affidavit in reply (at page nos. 78 to 84) respondent no. 2 reiterated stand of respondent no. 3 to which we have already adverted.

7. According to the Id. counsel for the applicant for following reasons the impugned order cannot be sustained:-

(i) The advertisement (A-15) did not contain anything to show that colour blindness could lead to disqualification.

(ii) In the advertisement there was mention of only height and chest to determine eligibility. It was silent about any other physical attribute including ocular fitness.

(iii) The Recruitment Rules of 1995 and 2005 (A-16) also prescribed the Physical Bench Mark regarding only height and chest.

8. The respondents, on the other hand, have relied on the following provisions contained in the Maharashtra Civil Services (General Conditions of Services) Rules, 1981.

### **Rule 11**

**"11 Certificate of physical fitness a pre-requisite for substantive appointment or continuance in service-** (i) Every Government servant shall produce a medical certificate of health either before he is appointed substantively to a permanent post or before he completes six months' service from the date of appointment, whichever is earlier. "

### **Rule 7 in appendix III**

"7. Candidates will be required to pass the visual test laid down in the regulations as to the standards of vision, vide schedule B below. A candidate whose standard of vision does not come up to the requirement of services specified in Annexure 'A' to Schedule 'B' shall be referred to the Board of Referees for assessment of their visual standard in relation to the nature of work the candidate is expected to do. The candidates declared unfit by the Board of Referees will not be eligible for appointment in Government service."

**Rule 12 in Appendix III:-**

(i) to (V) XXXXXX

(vi) Candidates must pass the visual test prescribed in Schedule 'B' to these rules.

In Annexure-'A' (Appendix-III), under Group-B posts for which high degree of ocular fitness is needed have been listed. In this list all Class-I and Class-II posts as well as Superintendents and Sub-Inspectors of Police are included.

9. Aforequoted provisions fully support contention of the respondent department that on account of his colour blindness the applicant was rightly held to be ineligible for the post of P.S.I.. We have referred to the submissions of the applicant which are founded on what the advertisement (A-15) and Recruitment Rules (A-16) do not contain. Clause 16 of the advertisement makes it clear that only brief details were furnished in it and for complete details one could go to website of M.P.S.C.. In the Recruitment Rules physical Bench Marks pertaining to height and chest only are mentioned as is done in the advertisement. It can be gathered that this mention of height and chest was for the purpose of facilitating screening of suitable candidates. Vide communication (A-1) at pg. no. 18 the applicant was informed by the respondent department :-

"We are pleased to inform you that you have been shortlisted for the document verification and medical. We would request you to appear for the final selection process at 10:00 a.m. on Wednesday, April 22, 2015 on the below given venue."

This communication makes it clear that the final selection was contingent upon positive outcome of the medical test. This was also made clear by letter dated 10.04.2015 issued by Additional D.G. of Police (Establishment). The relevant portion of this letter reads as under:-

"i ksyhl mi fujh{k d ¼ed; ½ ijh{k&2013 e/ku egkjk"Vª ykdI ok vk; kskus f'kQkjI dsy; k iq "k o efgyk menokjkph 'kkI ukuægkjk"Vª ykdI ok vk; kskus [kryhy vVh; k vf/ku jkgu i ksyhl mi fujh{k d inkoj ue.k d dj.; kl ekU; rk fnyh vkg&

v menokjkph fuoM vko'; d R; k oS dh; rikl .kroj voycu vl sy-"

Significant chronology in the matter may be reiterated:-

During the first medical examination the applicant was certified to be colour blind by both eyes. In the second medical examination Medical Board, Yavatmal certified that the applicant was "fit". On this occasion the Board failed to state anything about visual health of the applicant. This lapse was crucial. The certificate was, thereby, rendered valueless. The lapse referred to above was inexplicable considering the fact that the Board was duly apprised by the respondent department about what had transpired earlier and what the Board was expected to do to arrive at concrete conclusion about ocular condition of the applicant. Thereafter, the Board of Referees, G.M.C., Nagpur corroborated the opinion given first in point of time that the applicant was colour blind by both eyes, by certifying that colour vision of the applicant was (found to be) defective on 'Lantern Test'.

10. Thus, there were two certificates which opined that the applicant was colour blind. The second certificate on which the applicant wanted to rely did not, in fact, give opinion which could be relied upon in the least. We have referred to various provisions under the Maharashtra Civil Services (General Conditions of Services) Rules, 1981, which lay down that for the post of P.S.I. high degree of ocular fitness is needed. Aforesaid facts, appreciated in the light of various provisions which we have quoted above, show that the impugned order holding that the

applicant could not be given appointment to the post of P.S.I., does not suffer from any infirmity.

11. The applicant has relied on "**Union of India Vs. Satya Prakash Vasisht" 1994 (Supp. 2) SCC 52.**" In this case on consideration of relevant service rules it was held that in state police service colour blindness was a disqualification prescribed only for the post of Drivers and Traffic Staff and it did not apply to Constables, Head Constables, Sub Inspectors (Executive). In the case before hand we have considered Maharashtra Civil Services (General Conditions of Services) Rules, 1981 which clearly lead to the conclusion that colour blindness is a disqualification for giving an appointment to the post of P.S.I. Hence the order:-

**ORDER**

The O.A. is dismissed. No order as to costs.

**(M.A.Lovekar)**  
**Member(J).**

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

**Dated** :- 24/12/2021.

\*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 : 24/12/2021.

Uploaded on : 25/12/2021.