

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.613/2023

with C.A.No.430/2023(S.B.)

Smt. Ishwari W/o Surendra Gaure,
aged about 45 years,
Occu: Nil, R/o at Pathari,
Post Nakadongari, Tah. Tumsar,
Dist. Bhandara.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Home Affairs,
Mantralaya, Mumbai.
- 2) The Sub Divisional Officer
and Sub Divisional Magistrate,
Tumsar Dist. Bhandara.
- 3) Smt. Sarika Rajendra Raut,
aged about Major,
Occu. Not Known
- 4) Smt. Priti Nishant Maladhari,
aged about Major,
Occu Not Known both 3 and 4, R/o at Pathari,

Post: Nakadongari, Tah.Tumsar, Dist. Bhandara

Respondents

Shri K.S.Motwani, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

With

ORIGINAL APPLICATION NO.614/2023
With C.A.No.431/2023(S.B.)

Yogesh Chamaru Pendam,
aged about 34 years,
Occu: Nil, R/o at Chikhali,
Post Alesur, Tah. Tumsar,
Dist. Bhandara.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Home Affairs,
Mantralaya, Mumbai.
- 2) The Sub Divisional Officer,
and Sub Divisional Magistrate,
Tumsar Dist. Bhandara.
- 3) Shri Lileshwar Shrawan Poware,
aged about Major,

Occu. Labour, R/o at Chikhali,
Post Alesur, Tah. Tumsar, Dist. Bhandara.

Respondents

Shri K.S.Motwani, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents 1 and 2.
Smt.A.R.Taiwade, Ld. Counsel for the respondents 3.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 18th March, 2024.

JUDGMENT

Judgment is reserved on 5th March, 2024.

Judgment is pronounced on 18th March, 2024.

Heard Shri K.S.Motwani, learned counsel for the applicants,
Shri M.I.Khan, learned P.O. for the respondents and Smt.A.R.Taiwade,
learned counsel for the respondent no.3 in O.A.No.614/2023.

2. These O.As. involve identical issue. Hence, the same are
being decided by this Common Judgment.

3. By advertisement dated 17.04.2023 applications were
invited to fill posts of Police Patil in Tumsar and Mohadi Talukas of
Bhandara District. The advertisement *inter alia* stipulated as follows-

- 1) प्राप्त केलेल्या गुणांच्या आधारे गुणवत्तेनुसार अंतिम निवडीसाठी
अर्जदारांस शैक्षणिक पात्रता व इतर संबंधीत मुळ प्रमाणपत्र तपासणीसाठी

उपलब्ध करून दयावी लागतील. अन्यथा तोंडी परिक्षा अंतिम निवडीसाठी त्याचा विचार केला जाणार नाही.

2) लेखी परिक्षेअंती मुलाखतीसाठी पात्र अर्जदारांचे जाहीरातीनुसार आवश्यक पात्रता व अर्जात भरलेली माहिती यांच्या आधारे मुळ कागदपत्रे पडताळणी करण्याकरीता अंतरीम स्वरूपात यादी जाहीर करण्यात येईल. ज्या अर्जदाराची जाहीरातीनुसार आवश्यक पात्रता व अर्जात भरलेली माहिती, परिक्षा शुल्क कागदपत्रांच्या आधारे परिपूर्ण सिध्द होईल अशाच अर्जदाराचा विचार भरती प्रक्रियेच्या पुढील टप्याकरीता करण्यात येईल. जाहिरातीत नमुद केलेली संपुर्ण अर्हता अर्जात भरलेली माहिती व मुळ कागदपत्रे तपासणीच्या वेळी सादर केलेली कागदपत्रे यामध्ये तफावत आढळल्यास अर्जदाराची उमेदवारी भरतीच्या कुठल्याही टप्यावर रदद होवू शकेल, तसेच अशा अर्जदाराचे परिक्षा शुल्क इत्यादीसारख्या सवलती नामंजुर करण्यात येतील. याची कृपया सर्वांनी नोंद घ्यावी.

5) अर्जदारांचे कोणत्याही राजकिय पक्षाशी संबंध नसावा. त्याचप्रमाणे इतर ठिकाणी संपूर्ण वेळ नोकरी करणारा नसावा. त्याचप्रमाणे ग्रामपंचायत सदस्य नसावा. तसेच खाजगी किंवा निमसरकारी संस्थेचा सदस्य नसावा. अथवा पुर्णवेळ नोकरी करणारा नसावा याबाबतचे रूपये 100/- च्या स्टॅम्प पेपरवरील प्रतिज्ञापत्र, कागदपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.

The applicant in O.A.No.613/2023 applied for the post of Police Patil of Village Pathri, Taluka Tumsar whereas the applicant in O.A.No.614/2023 applied for the post of Police Patil of Village Chikhali,

Taluka Tumsar. Written test was scheduled on 06.05.2023. List of the candidates eligible for interview was to be published on 07.05.2023. Interviews to fill the posts in Tumsar Taluka were scheduled on 08.05.2023. The applicant in O.A.No.613/2023 was holding the post of Member of Gram Panchayat whereas the applicant in O.A.No.614/2023 was holding the posts of Deputy Sarpanch / Member of Gram Panchayat. Both the applicants were selected for the posts they had applied for. Select list featuring their seat numbers was published on 10.05.2023. According to the applicant in O.A.No.613/2023, she resigned as Member of Gram Panchayat on 04.05.2023 and her resignation was accepted by the Gram Panchayat on 27.05.2023. According to the applicant in O.A.No.614/2023, he resigned on 05.05.2023 as Deputy Sarpanch and Member of the Gram Panchayat and his resignation was accepted on 16.05.2023. The applicant in O.A.No.613/2023 filed her affidavit on 08.05.2023 that she was not holding any post so as to incur disqualification for being appointed as Police Patil whereas the applicant in O.A.No.614/2023 filed such affidavit on 29.05.2023. In the meantime objections were received regarding selection of both the applicants. These objections were heard. The separate orders cancelling selection of both the applicants were passed on 12.06.2023. The impugned orders stated –

पोलीस पाटील पदाचा अर्ज दाखल करण्याचा तारखेला तसेच लेखी परीक्षेचा निकालानंतर मुलाखत (तोंडी परीक्षा) पुर्वी कागदपत्र पडताळणीचे वेळी वरील सदंर्भिय जाहिराती मधील निवड कार्यपध्दती, अटी व शर्ती मधील अट क्र.5 नुसार 100/- च्या स्टॅम्प पेपरवरील प्रतिज्ञापत्र सादर केले असुन प्रतिज्ञापत्र सादर करतेवेळी आपण ग्रामपंचायत सदस्य पदावर कार्यरत असल्याचे दिसुन येते.

पोलीस पाटील पदाचा अर्ज दाखल करण्याचा तारखेला तसेच लेखी परीक्षेचा निकालानंतर मुलाखत (तोंडी परीक्षा) पुर्वी कागदपडताळणीचे वेळी ग्रामपंचायत सदस्य पदावर कार्यरत असल्याची बाब निदर्शनास आली आहे. त्यामुळे आपली पोलीस पाटील पदावर झालेली निवड ही रदद करण्यात येत आहे.

पोलीस पाटील पदाचा अर्ज दाखल करण्याचा तारखेला तसेच लेखी परीक्षेचा निकालानंतर मुलाखत (तोंडी परीक्षा) पुर्वी कागदपत्र पडताळणीचे वेळी वरील सदंर्भिय जाहिराती मधील निवड कार्यपध्दती, अटी व शर्ती मधील अट क्र.5 नुसार 100/- च्या स्टॅम्प पेपरवरील प्रतिज्ञापत्र आपण सादर केले नसल्याने उपसरपंच तथा ग्रामपंचायत सदस्य पदावर कार्यरत असल्याचे आपण दिसुन येते.

Hence, these O.As.

4. It was submitted by Shri K.S.Motwani, learned Advocate for the applicants that appointment orders were admittedly not issued to the applicants and once they had resigned from the posts of Gram Panchayat no impediment remained in the way of issuing appointment orders to them. In support of this submission reliance was placed on

G.R. dated 02.06.2022 issued by the Home Department of Government of Maharashtra. Relevant part of this G.R. reads as under-

2. विषयाधीन प्रकरणी शासनपत्र दि. १० मे, १९८३ अन्वये दिलेल्या मार्गदर्शक सूचना खालीलप्रमाणे आहेत.

पोलीस पाटील हा गावातील शासनाचा निवासी प्रतिनिधी असतो. त्याच्या पदाचा दर्जा, कामाची भूमिका आणि जबाबदा-या पाहता, त्यांनी कोणत्याही राजकीय कार्यात स्वतःला सहभागी करून घेणे अपेक्षित नाही. महाराष्ट्र नागरी सेवा (वर्तणूके) नियम, १९७९ च्या नियम ५(१) नुसार पोलीस पाटील यांना राजकारणात भाग घेण्यापासून अथवा विधानमंडळाच्या अथवा स्थानिक स्वराज्य संस्थेच्या कोणत्याही निवडणूकीत सहभाग घेण्यास प्रतिबंधित केले आहे. पोलीस पाटील पदासाठीचा उमेदवार हा कोणत्याही राजकीय पक्ष किंवा राजकीय संघटनेचा सदस्य, किंवा त्यांच्याशी संलग्न असता कामा नये. स्थानिक स्वराज्य संस्थांचे पदाधिकारी किंवा सदस्य यांचा पोलीस पाटील पदासाठी उमेदवार म्हणून विचारात घेतले जाऊ शकतात. तथापि, त्यासर्व पदावरून प्रत्यक्षात राजीनामा दिल्यानंतरच त्यांची नियुक्ती पोलीस पाटील पदावर केली जाऊ शकते.

5. Respondents 1 and 2, on the other hand have relied on the Judgment of Aurangabad Bench of this Tribunal in O.A.No.542/2016 **(Smt.Vaishali wife of Ashok Kathar Vs. Divisional Commissioner, the Aurangabad Division and three others)** to resist the O.As.. In this Judgment relevant terms and conditions of selection incorporated in the

advertisement were reproduced. These terms and conditions are reproduced hereinabove. It was held-

He has to produce affidavit on stamp paper of Rs. 100/- at the time of verification of the documents. The stage of verification of documents has been fixed after result of the written examination. The said stage is after the written examination and before the oral interview. The said condition-specifically provides that the Member of the Gram Panchayat is not eligible for applying for the post of Police Patil.

Reference was then made to letter dated 10.05.1983 as follows-

In support of their contentions, they have placed reliance on the letter dated 10.05.1983 issued by the Desk Officer, Home Department, Government of Maharashtra, wherein clarifications on some points have been given by the Government.

The relevant paragraph is reproduced as follows:-

"2. The Police Patil of a village is Government's resident representative in the village. Looking to his status, role and responsibilities he is not expected to involve himself in any political activity. In terms of Rule 5 of the Maharashtra Civil Services (Conduct) Rules, 1979 a Police Patil is precluded from taking part in politics or in an election to any legislature or local authority. A candidate for a post

of Police Patil should not be a member or be otherwise associated with any political party or organization taking part in politics. An office-bearer or member of a local body who is a candidate for a post of Police Patil may be considered for such post but he could be appointed Police Patil only on his actual resignation from that body being effective.'

Aforequoted guidelines contained in letter dated 10.05.1983 are reproduced in G.R. dated 02.06.2022.

It was further observed-

The guidelines issued by the Government in the letter dated 10.05.1983 are by way of clarification and it has no overriding effect over the Recruitment Rules. The advertisement dated 25.02.2016 had been issued considering the various G.Rs. and Recruitment Rules for the post of Police Patil, where it has been specifically mentioned that the Member of Gram Panchayat is not eligible for the appointment for the post of Police Patil. It shows that on the date of filing the application he should not be a Member of any Village Panchayat and, therefore, the clarification given by the Desk Officer is not much useful to the respondent No. 4 in this case. Therefore, I do not find substance in the submissions advanced by the learned Advocate for respondent No. 4 in that regard.

While passing the Judgment dated 30.11.2017 the Aurangabad Bench placed reliance on a Judgment dated 22.11.2016 of the same Bench in O.A.No.352/2016 (**Saw Sangita wife of Balkishan Sangle Vs. the State of Maharashtra and three others**) wherein it was held-

As already stated, the applications were called from eligible candidates only and for being eligible, it was necessary that the said person shall not be a Member of Village Panchayat or in any service. However, on the date of submission of application for the post, the res. no. 4 was the Member of Village Panchayat, Sanglewadi as well as was in service as a Prerika under Lokshikshan Centre, Sanglewadi and, therefore, the candidature of the res. no. 4 should not have been accepted by the res. no. 3 and subsequent resignation will not make the res. no. 4 eligible for the post of Police Patil.

These two Judgments of Aurangabad Bench fully apply to the facts of the case and lead to the conclusion that both the impugned orders do not call for interference. The O.As. are accordingly dismissed, and C.As. are disposed of, with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 18/03/2024
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 18/03/2024.
and pronounced on
Uploaded on : 18/03/2024.