

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT NAGPUR**

ORIGINAL APPLICATION NO.151/2009

DISTRICT – WARDHA

Nileshsingh s/o Gopalsingh Suryawanshi,
Age : 27 years,
R/o. Laxmi Nagar, Wardha.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Department of Home Affairs,
Mantralaya, Mumbai-400 032.

2. The District Superintendent of Police,
Wardha.

...RESPONDENTS

APPEARANCE :Shri P.D.Meghe, learned Advocate for the
applicant.

Shri A.M.Ghogre, learned Presenting
Officer for the respondents.

CORAM: Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)
A N D
Hon'ble Shri J.D.Kulkarni, Member (J)

DATE: 13th ^{Feb.} January, 2017.

ORDER

[PER: MEMBER (J)]

Applicant Nileshsingh s/o Gopalsingh Suryavanshi
was not given appointment as respondent no.2 lodged an
offence in respect of caste certificate. Applicant had clearly

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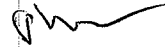
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disclosed in the Attestation Form about pendency of the criminal case and despite that name of the applicant was declared in the select list of Open category. On 06-02-2008, applicant received communication from respondent no.1 that the applicant cannot be given appointment due to pendency of the criminal case.

2. On 06-01-2009, learned Chief Judicial Magistrate (CJM), Wardha acquitted the applicant from criminal charges. The applicant, therefore, filed representation on 30-01-2009 and requested the respondent authorities to appoint him with effect from 2006 since he was acquitted in the criminal case. However, vide impugned communication dated 12-02-2009, Superintendent of Police Wardha intimated the applicant as under (page 25) :

“उपरोक्त विषयांकीत संदर्भान्वये कळविण्यात येते की, सन २००६ च्या पोलीस भरतीत आपली पोलीस शिपाई पदावर निवड करण्यात आली होती, परंतु साक्षांकन नमून्यात आपणावर पो.स्टे.वर्धा अप.क्र.२७/२००४ कलम ४२०, ४६८, ४७१ भादविचा गुन्हा दाखल असल्याने आपली पोलीस शिपाई पदावर नियमानुसार नियुक्ती होवू शकली नाही.

सन २००६ च्या पोलीस भरतीतील पोलीस शिपायाची पदे त्याच वेळी भरण्यात आली असून आज तारखेला आपण

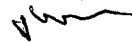


पोलीस शिपाई पदाकरीता पात्र नसल्याने आपणास पोलीस शिपाई पदावर नियुक्ती देता येणार नाही.”

3. Applicant has therefore prayed that the communication dated 12-02-2009 issued by respondent no.2 refusing appointment order in applicant's favor be quashed and set aside and respondent no.2 be directed to issue appointment order in applicant's favor on the basis of selection as Police Constable as per selection list of 2006.

4. In the reply affidavit, respondent no.2 submitted that the applicant was not given appointment as FIR was lodged against him. However, the applicant came to be selected on the said post in Open category in 2006. Since criminal case was pending against the applicant no appointment order was issued to him. Applicant finally came to be acquitted by the CJM, Wardha in Criminal Case No.515/2004 by order dated 06-01-2009.

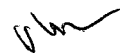
5. In the rejoinder affidavit, applicant has submitted that he has honestly disclosed about pendency of the criminal case against him and insptie of such disclosure he was selected, and therefore, appointment order cannot be refused merely because criminal case was pending. It is



applicant, he was not found fit for appointment, and therefore, the applicant was refused appointment. Similar communication was already issued on 4th December, 2006. A copy of said communication is Annexure A-6 (page 30). It is, therefore, clear that even in 2006, the applicant was intimated the reason as to why he has not been appointed.

9. Learned P.O. has invited our attention to the judgment delivered in Criminal Case No.515/2004 by the learned CJM, Wardha. Vide judgment dated 6th January, 2009, the applicant has been acquitted of the criminal charges. In view of the said judgment, applicant has been appointed after the date of acquittal.

10. We, therefore, do not find any illegality in not appointing the applicant during the pendency of the criminal case. Even for arguments' sake if it is accepted that the applicant did not conceal the fact that the criminal case was pending against him still we do not find any illegality in not appointing the applicant during the pendency of the criminal trial. After trial was concluded in acquittal, the applicant has been rightly appointed. Therefore, nothing survives in this O.A. Impugned



communication dated 12-02-2009, therefore, cannot be said to be illegal.

11. In the result, we do not find any merit in the O.A.

Hence, following order:

ORDER

O.A. stands dismissed with no order as to costs.


(J. D. Kulkarni)
MEMBER (J)


(Rajiv Agarwal)
Vice-Chairman

PLACE : NAGPUR

DATED : 13-2-2017

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