

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.207 OF 2017**

DISTRICT : MUMBAI

1. Shri Avdhut J. More,)
Age 26 years, present residing At Post Gargoti,)
Taluka Bhudhargad, District Kolhapur 416209)
2. Shri Ajay Y. Kalimbe,)
Age 26 years, presently residing At Post Pashane)
Taluka Karjat, District Raigad 410101)
3. Shri Nitin S. Babar,)
Age 23 years, presently residing at Village)
Manegaon, At Post Lonvira, Tal. Sangola,)
District Solapur 413309)..Applicants

Versus

1. The State of Maharashtra,)
Through Director General of Police, SRPF-8,)
Jai Coach, Western Express Highway,)
Goregaon (East), Mumbai 400065)
2. Commandant of SRPF,)
Group No.8, Western Express Highway,)
Goregaon (East), Mumbai 400065)..Respondents

Shri M.V. Thorat – Advocate for the Applicants

Smt. Archana B.K.– Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)
Shri A.P. Kurhekar, Member (J)

RESERVED ON : 6th August, 2019

PRONOUNCED ON : 13th August, 2019

PER : Shri P.N. Dixit, Vice-Chairman (A)

J U D G M E N T

1. Heard Shri M.V. Thorat, learned Advocate for the Applicants and Smt. Archana B.K., learned Presenting Officer for the Respondents.

Brief facts:

2. The applicants participated in selection for the post of Constable in response to the advertisement issued by respondent no.2. The applicants were placed in the waiting list published on 18.6.2014. The applicants approached respondent no.2 for being considered for appointment on 5.5.5016 on the ground that as per the information received by them through RTI four persons did not join for personal reasons. All these persons who did not join informed respondent no.2 from 4.7.2014 to 27.1.2015. According to the applicants, the applicants should have been considered for appointment in the vacancies which took place within six months from the date of publication. During hearing Ld. Advocate for the applicants submitted that the applicants had approached respondent no.2 for being posted in the vacancies and had made oral submissions. However, they have no documentary evidence to substantiate the same. The Ld. Advocate for the applicant relies on the judgment of the Hon'ble

Supreme Court in State of J & K & Ors. Vs. Sat Pal, AIR 2013 SC 1258.
The relevant portion of the same reads as under:

“11. A waiting list would start to operate only after the posts for which the recruitment is conducted, have been completed. A waiting list would commence to operate, when offers of appointment have been issued to those emerging on the top of the merit list. The existence of a waiting list, allows room to the appointing authority to fill up vacancies which arise during the subsistence of the waiting list. A waiting list commences to operate, after the vacancies for which the recruitment process has been conducted have been filled up.”

3. The respondent no.2 has filed the affidavit. The respondent no.2 in the affidavit mentions that applicant no.1 made an application on 5.5.2016 and the same was replied on 17.5.2016. Remaining applicants did not make any applications seeking appointments (para 12 page 42 of OA). The affidavit further submits that after the candidates communicated their unwillingness the process of appointment to the selected candidates was going on. Therefore, names of the applicants who were in the waiting list were not considered for appointment (page 14.1 page 43 of OA). Respondent no.2 further submits that applicant no.1 was not considered for appointment since he approached respondent no.2 after expiry of one year from the date of publication of the waiting list. Respondent no.2, therefore, has submitted that the OA is without any merit and be dismissed.

Discussion and findings:

4. It is the contention of the applicants that they had approached respondent no.2 to inform them about the vacancies and they were hopeful that the vacancies would be filled in from the waiting list.

However, they did not receive the correct information. After getting authentic information through RTI, one of the applicants made written representation on 5.5.2016 to consider him for appointment from the waiting list. The same was replied and rejected by the impugned order on 7.5.2016. Respondent no.2 justifies the delay on the ground that the process of appointment was continuing. The process could have been expedited.

5. However, as per available record, the applicants made first written representation on 5.5.2016 much after one year as the list of selected candidates and wait listed candidates was published on 18.6.2014. The information obtained by the applicants through RTI could have been obtained much earlier. Unless the representations are made to the respondents in time it would not be possible to expect that the respondents would consider the same. Already more than 3 years are over and the process of selection is complete and appointments of the aspiring candidates are done. It would not be therefore appropriate to provide relief to the applicants as per the prayers made by them. No illegality is found in the impugned order dated 7.5.2016 in rejecting the representation made by the applicants on 5.5.2016, beyond the validity of the waiting list.

6. Original Application is devoid of any merits and therefore rejected. No order as to costs.

Sd/-

(A.P. Kurhekar)
Member (J)
13.8.2019

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
13.8.2019

Dictation taken by: S.G. Jawalkar.