

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.536 OF 2019  
(Subject :- Compassionate Appointment)**

**DISTRICT : BEED**

**Amol s/o Sandipan Kadam,** )  
Age: 39 years, Occu: Service at present )  
Police Constable, Police Head Quarter, )  
Beed, Tq. & Dist. Beed, )  
R/o. Shahu Nagar, Pangri Road, )  
Beed, Tq. & Dist. Beed. )...**Applicant**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
Home Department, )  
Maharashtra State, )  
Mantralaya, Mumbai -32. )
2. **The Superintendent of Police,** )  
Beed, Tq. & Dist. Beed. )...**Respondents.**

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**Shri M.S.Bhosale, Advocate for the Applicant.**

**Smt. Sanjivani Ghate, Presenting Officer for the Respondents.**

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**CORAM : B. P. PATIL, ACTING CHAIRMAN**

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**RESERVED ON : 12.02.2020.**

**PRONOUNCED ON : 18.02.2020.**  
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**O R D E R**

1. The Applicant has challenged the order dated 27.07.2018 passed by the Respondent No.2 rejecting his request to change his cadre and for appointment on the post of Clerk or Peon and

also prayed to modify the appointment order dated 16-11-2009 issued by the respondents.

2. Deceased Sandipan Baburao Kadam was father of the applicant. Deceased Sandipan Baburao Kadam joined service as Police Constable in the year 1978. Thereafter, he was promoted as a Police Inspector in the year 2004. Father of the applicant died on 05-01-2010 due to kidney failure and at that time he was in service. After death of the father, applicant moved an application seeking appointment on compassionate ground. Accordingly, respondents issued appointment order in his favour on 16-11-2009 and appointed him on the post of Police Constable. The applicant joined the post accordingly. On 07-06-2010 respondents sent him to Police Training Centre, Marol, Mumbai for undergoing basic training course for Police Constable. During the course of training the applicant fell ill and therefore he proceeded on leave. After recovery on 21-08-2010 he joined the Police Training Centre but the concerned authorities sent him back to Beed and directed to join next batch for training. Respondent no.2 suspended him without considering the above said facts. Therefore, the applicant approached the Director General of Police, Maharashtra, Mumbai

by preferring appeal. On 29-01-2013, the Director General of Police, Mumbai modified the suspension order and directed the applicant to join service. Thereafter, on 08-11-2013, the applicant was on medical leave, and therefore, he could not able to join next batch of training. On 19-11-2013, applicant was once again sent for training. During the course of training, applicant informed the Principal of Training Centre that he was facing medical problems and he was suffering from blood pressure. The concerned authority sent him back to Beed. On 19-12-2014, the respondent no.2 issued an order after conclusion of Departmental Enquiry and terminated him from the service. The applicant challenged the said termination order before respondent no.1 by preferring an appeal. The respondent no.1 decided the appeal and set aside the order of termination and reinstated the applicant in service by imposing punishment of keeping him on the post of Police Constable for 3 years on basic pay instead of order of termination.

3. On 20-06-2018, the applicant submitted a representation to the respondent no.2 and requested to make partial change in his appointment order and requested to appoint him as Clerk or Peon as he was not able to complete the training due to medical

problems. He attached medical certificate along with the application. On 27-07-2018, respondent no.2 rejected the application of the applicant on the ground that there is no provision to change the cadre. It is contention of the applicant that the impugned order is illegal. It is his contention that the respondent no.2 has not considered the medical certificate produced by the applicant while rejecting his representation. It is his contention that due to health problems, he is unable to undergo the training for Police Constable but the respondent has not considered the said aspect while rejecting his application. Therefore, he has prayed to quash the order dated 27.07.2018 passed by the Respondent No.2 rejecting his request to change his cadre and prayed for appointment on the post of Clerk or Peon and also prayed to modify the appointment order dated 16-11-2009 issued by the respondent no.2.

4. Respondent no.2 filed affidavit in reply and resisted the contentions of the applicant. He has admitted the fact that the applicant was appointed on compassionate ground in view of the G.R. dated 26-10-1994. It is his contention that the applicant was appointed on Group-C post i.e. Police Constable and accordingly the applicant joined the service. He has not disputed

the fact regarding sending the applicant for training, his suspension and departmental enquiry initiated against him. He has admitted the fact that the applicant was terminated from the service but his termination order has been modified in the appeal and he was reinstated in service and kept on the basic pay scale of Police Constable for 3 years. He has admitted the fact that the applicant joined duty after reinstatement and thereafter he was again sent for training. He has admitted the fact that the applicant made representation on 20-06-2018 and requested to change his cadre by modifying the appointment order and to appoint him as Clerk or Peon as he was not able to complete basic training of the Police Constable due to his ill-health. It is his contention that on 18-05-2018, the applicant was sent to Civil Surgeon, Beed for medical examination before reinstatement in service. After medical examination, he was found fit to join the post of Police Constable. It is his contention that as per the letter dated 11-06-2018 of Home Department and letter of Director General of Police, Mumbai dated 06-08-2008, the person who is appointed on the post of Police Constable cannot change his cadre and cannot be appointed as Clerk or Peon. It is his contention that in view of the said communication, request of the applicant has been rejected and there is no illegality in the same.

It is his contention that there is no provision to change the cadre of the employee appointed in the cadre of Police Constable and therefore request of the applicant has been rejected. It is his contention that he has passed the order in accordance with the provisions of law and there is no illegality in the same. Therefore, he justified the impugned order and prayed to dismiss the O.A.

5. I have heard Shri M.S.Bhosale, learned Advocate for the Applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the Respondents. I have perused the documents placed on record by the parties.

6. Admittedly, deceased Sandipan Baburao Kadam was father of the applicant. Deceased Sandipan Baburao Kadam joined service as Police Constable in the 1978 on the establishment of respondent no.2. Thereafter, he was promoted as a Police Inspector in the year 2004. Father of the applicant died on 05-01-2010 due to kidney disease while he was in service. After death of the father, applicant filed an application seeking employment on compassionate ground. Accordingly, respondent no.2 issued appointment order in his favour on 16-11-2009 and appointed him on the post of Police Constable. The applicant joined the post of Police Constable accordingly. Thereafter

on 07-06-2010 he was sent for basic training in Police Training Centre, Marol, Mumbai. During the course of training the applicant proceeded on medical leave as he was facing medical problems. Thereafter, he joined the training centre on 07-06-2010 but the concerned officers of the Police Training Centre sent him back to Beed with a direction to join next batch for training. At that time, respondent no.2 suspended him. Said suspension order has been challenged by the applicant before the Director General of Police and on 29-01-2013 the order has been quashed and accordingly he joined the service. Thereafter, he was sent for training but he could not join the training due to his ill-health on 08-11-2013. Therefore, again he was sent for training on 19-11-2013. At that time also the applicant told Principal of Training Centre that he was facing medical problems and suffering from blood pressure. Therefore, he was sent back to Beed by the concerned authorities. Thereafter, a departmental enquiry was initiated against him. On conclusion of departmental enquiry, respondent no.2 passed the order on 19-12-2014 and terminated the services of the applicant. The applicant preferred an appeal before the respondent no.1 challenging the said order. The appeal was allowed and the order of termination was set aside and punishment was modified and

he was kept on basic pay scale of Police Constable for 3 years. Admittedly on 20-06-2018, the applicant made a representation with the respondent no.2 and requested to modify the appointment order partially and to appoint him as Clerk or Peon and also prayed to change his cadre as he was not able to complete the training due to his ill-health. Said representation came to be rejected by the respondent no.2 by the impugned order dated 27-07-2018.

7. Learned Advocate for the applicant has submitted that the applicant was appointed on compassionate ground as Police Constable. Since beginning, the applicant was facing medical problems and therefore he could not able to complete basic training required for Police Constable. He has submitted that as the applicant was suffering from medical ailment, he moved an application with respondent no.2 and requested to modify his appointment order and to change his cadre and to appoint him as Clerk or Peon instead of Police Constable. He has submitted that the applicant submitted medical certificate in that regard but the respondent no.2 has not considered the said document and genuine problem of the applicant and rejected the request of the applicant by issuing the impugned order. He has submitted



that the impugned order is against the provisions of the law. He has submitted that the respondent no.2 has not considered the facts and circumstances while rejecting representation of the applicant, and therefore, he prayed to quash the impugned order by allowing the O.A.

8. Learned P.O. has submitted that the applicant was appointed as Police Constable on compassionate ground as he was eligible for appointment on the said post. He was sent for training on various occasions but the applicant avoided to undergo the training meant for the post of Police Constable. Therefore, disciplinary action had been initiated against him. She has submitted that the applicant intentionally avoided to undergo the training and therefore he was terminated from service but his termination order has been set aside and the applicant was reinstated in service. She has submitted that thereafter the applicant moved an application for change of cadre but the respondent no.2 has rejected the said application on the ground that there is no provision to change cadre of Police personnel once they are appointed in a cadre. He has submitted that the respondent no.2 rejected the application in view of the direction given by Home Department by letter dated 11-06-2008

and Director General of Police, Mumbai by letter dated 06-08-2008. Therefore, she has justified the impugned order and prayed to dismiss the O.A.

9. On perusal of documents on record, it reveals that the applicant was appointed as Police Constable on compassionate ground after death of the father who was serving on the establishment of respondent no.2. The applicant was found eligible for appointment on the post of Police Constable, and therefore, he has been appointed by respondent no.2 in the year 2009. Thereafter, he was sent for training at Police Training Centre, Marol, Mumbai twice but he has not completed the training and he left training on account of his ill-health. Therefore, he was suspended but his suspension order has been cancelled. Thereafter, again he was sent for training in the year 2013 and 2014 but the applicant has not completed the training on the ground of medical problem. The departmental enquiry was initiated against him and after conclusion of departmental enquiry he was terminated from the service but the termination order has been cancelled by the respondent no.1 in appeal by order dated 29-01-2013 and applicant was reinstated in service. Punishment imposed on the applicant was modified and he was

kept on the basic pay scale of Police Constable for 3 years. Thereafter, the applicant made representation and requested to change his cadre. Said facts show that the applicant was initially appointed as Police Constable as he was eligible. Before joining the service, he had undergone medical examination and at that time he was found fit to join the post of Police Constable. Not only this but after quashing the termination order and his reinstatement in service, applicant was referred to medical board headed by Civil Surgeon, Beed. In the medical examination he was found fit for resuming duty as Police Constable, and therefore, he was allowed to join the duty. As the applicant was medically fit, he was sent for training but the applicant avoided to undergo training on one or the other ground. There is nothing on record to show that the applicant was medically unfit to discharge his duties as Police Constable. Applicant was appointed in the cadre of Police Constable. There is no provision to change the cadre once if a person is appointed in the cadre of Police Constable. This fact has been brought to the notice of all the Police authorities by Home Department by letter dated 11-06-2008 as well as a Circular of Director General of Police, Mumbai dated 06-08-2008.

10. The applicant was appointed under the compassionate appointment scheme introduced for giving employment to the Legal Representatives of the Government servant who died while in service. Said scheme was introduced for providing financial help to the Legal Representatives of the deceased Government employee. The heirs of the deceased Government employees cannot claim employment on a particular post as of right. The employment can be given to them as per their eligibility and vacancies. Accordingly, the applicant was appointed as Police Constable as he was eligible and fit for appointment on the post Police Constable. Therefore, he has no right to claim appointment on a particular post i.e. on the post of Clerk or Peon as per his wish. Once he has been appointed in the cadre of Police Constable, he was to undergo basic training required to discharge duties of Police Constable. He was sent for training accordingly but the applicant by hook or crook does not want to undergo training. Therefore, he made representation with the respondent no.2 to change his cadre. Respondent no.2 has rightly rejected the said application of the applicant on the basis of direction given by the Home Department in its communication dated 11-06-2008 and Circular issued by the Director General of Police, Mumbai dated 06-08-2008.

11. Considering the above facts, in my view there is no illegality in the impugned communication/order dated 27-07-2018. Therefore, no interference is called for in it. There is no merit in the O.A. Consequently, it deserves to be dismissed.

12. In view of the discussion in the foregoing paragraphs O.A. stands dismissed without any order as to costs.

**PLACE :- AURANGABAD.**  
**DATE :- 18.02.2020**

**(B.P. PATIL)**  
**ACTING CHAIRMAN**