

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.811/2016**

**DISTRICT: AHMEDNAGAR**

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Shri Shailendra S/o. Sitaram Vighe,  
Age : 35 years, Occ : Nil,  
R/o: Undirgaon, Tq. Shrirampur,  
District Ahmednagar.

..APPLICANT

V/s.

1] Administrative Officer,  
Additional General Director of Police and  
General Inspector of Prison,  
Maharashtra State, Pune-01,  
Old Administrative Building, 2<sup>nd</sup> Floor,  
Pune-411 001.

2] President, State Selection Committee (Prison)/  
Additional General Director of Police and  
General Inspector of Prison,  
Maharashtra State, Pune-01  
Old Administrative Building, 2<sup>nd</sup> Floor,  
Pune-411 001.

...RESPONDENTS

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APPEARANCE: Shri R.V.Gore learned Advocate for the  
applicant.

Shri S.K.Shirse learned Presenting  
Officer for the respondents.

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

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DATE : 01-08-2017  
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**ORAL ORDER**

**[PER: VICE CHAIRMAN (A)]**

This O.A. has been filed by the Applicant who has applied for one post reserved for VJ(A) category for the post of Smithy Instructor in the office of Additional Director General of Police and Inspector General of Prison Pune. Advertisement for the post was issued on 7<sup>th</sup> August, 2013.

2. Learned Advocate for the applicant stated that the applicant has applied for one post reserved for VJ(A) category though the applicant belongs to NT(B) category as the posts in DT-NT category are inter-transferable. However, reservation for the post was changed by the respondent no.1 and out of 3 posts for Smithy Instructor, one post was reserved for S.T. category and two posts were kept Open. The Applicant was considered from Open category and he could not come in the merit list. Post reserved for S.T. category was not filled and it was kept vacant.

3. Learned Advocate for the applicant prayed that the respondent no.1 be directed to give appointment to the applicant on ad-hoc basis against the post reserved for S.T. category, which has remained vacant. He contended that if a reserved post could not be filled and there is urgency of filling the same, the post could be filled on ah-hoc basis by a candidate from other category.

4. Learned P.O. has stated that the applicant was not found to be meritorious for selection on the post of Smithy Instructor from Open category. He could not be considered from DT NT category as reservation was changed and no post from DT-NT category was reserved. This O.A., is therefore, without any merit and the Tribunal may not interfere in the matter. As per the Maharashtra State Public Services Reservation for Schedules Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and other Backward Classes Act, 2001, the post reserved for a particular reservation category has to be carried forward for 5 years, if suitable candidate from that category is not available. Learned P.O. stated that whether the post is required to be filled on urgent basis

has to be decided by the respondent no.1 and Tribunal may not interfere in such matters.

5. We are inclined to accept the above submissions made by the learned P.O. It is unfortunate that respondent no.1 changed reservation for the post of Smithy Instructor and no post came to be reserved for DT-NT category. However, there is no allegation and challenge from the applicant against the decision taken by the respondent no.1 changing reservation. It is an admitted fact that the applicant could not make it on the basis of his merit from Open category. The post reserved for S.T category could not be filled. However, this Tribunal is not inclined to give any direction to the respondents to give appointment to anyone on ad-hoc basis on that post. Accordingly this O.A. is dismissed with no order as to costs.

**(B. P. Patil)**  
**Member (J)**

**(Rajiv Agarwal)**  
**Vice-Chairman (A)**

**PLACE : AURANGABAD**  
**DATE : 01-08-2017**