

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.661/2016**

**DISTRICT: AURANGABAD**

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Vandana w/o Vishnu Dudhe,  
Age : 27 years, Occ : Household,  
R/o: At Sultanwadi,  
Post Pimpalgaon (Gangdeo),  
Tq. Phulambri, Dist. Aurangabad. ..APPLICANT

V/s.

- 1] The Secretary,  
Home Department,  
Maharashtra State,  
Mantralaya, Mumbai.
- 2] The Collector, Aurangabad,  
Dist. Aurangabad.
- 3] The Sub Divisional Magistrate,  
Phulambri Sub Division,  
Phulambri, Dist. Aurangabad.
- 4] Smt. Lata Supadu Gunjal,  
Age : 30 years, Occ : Household,  
R/o: Sultanwadi,  
Tq. Phulambri, Dist. Aurangabad.
- 5] Medical Superintendent,  
Rural Hospital Phulambri,  
Dist. Aurangabad. ...RESPONDENTS

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APPEARANCE: Shri S.B.Mene learned Advocate for the  
applicant.

Shri I.S.Thorat learned Presenting  
Officer for respondent nos.1 to 3 and 5.

Shri M.R.Kulkarni learned Advocate for  
respondent no.4.

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CORAM: Hon'ble Shri B. P. Patil, Member (J)  
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DATE : 28-02-2017  
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**ORAL ORDER:-**

The applicant has sought relief to quash the appointment order of respondent no.4 on the post of Police Patil of village Sultanwadi, Tq. Phulambri, Dist. Aurangabad dated 01-07-2016 issued by respondent no.3 on the ground that the respondent no.4 was physically handicapped and she was not fit to discharge duties of Police Patil. It is the contention of the applicant that she has raised objection in this regard but the Sub Divisional Officer had not considered it. Medical certificate issued by the Medical Board and experts has also not been taken into consideration by the Sub Divisional Officer. It is further contention of the applicant that respondent no.5 without considering the certificate issued by Medical Board issued fitness certificate of respondent no.4. Consequently, respondent no.3 issued appointment order to the respondent no.4 on the post of Police Patil.

2. Respondents have filed affidavits in reply and resisted the contention of the applicant. It is their contention that respondent no.4 has got highest marks in the selection process, and thereafter, she was selected and appointed on the post of Police Patil. The applicant had raised objection regarding the physical fitness of respondent no.4 on the basis of disability certificate issued by the Medical Board consisting of Civil Surgeon and other experts. Sub Divisional Officer, Phulambri after considering objection raised by the present applicant sent respondent no.4 for medical examination to Medical Superintendent, Rural Hospital, Phulambri, Dist. Aurangabad with a request to consider objection raised by the applicant and verify whether the respondent no.4 is physically fit to discharge duties of the Police Patil. Thereafter, respondent no.4 was medically examined by the respondent no.5 Medical Superintendent, Rural Hospital, Phulambri and after examination he issued certificate dated 16-06-2016 certifying that the applicant is physically fit to perform duties of Police Patil and she has no disability. The appointment of respondent no.4 made on the post of

Police Patil is legal and hence they prayed to reject the original application.

3. Heard Shri S.B.Mene learned Advocate for the applicant, Shri I.S.Thorat learned Presenting Officer for respondent nos.1 to 3 and 5, and Shri M.R.Kulkarni learned Advocate for respondent no.4.

4. Learned Advocate for the applicant submitted that in view of the advertisement issued on 25-01-2016, it is one of the essential criteria for the candidates to be eligible to the post of Police Patil that a candidate should be physically fit and should produce certificate of medical fitness. Applicant has submitted that respondent no.4 is physically handicapped lady and has 42% disability of lower limb of right leg.

5. The applicant has produced certificate issued by Medical Board comprising Civil Surgeon and Resident Medical Officer and Orthopedic Surgeon, General Hospital, Jalna dated 17-02-2010 in which it is certified that respondent no.4 had 42% disability as her lower limb of the right leg was affected. It is argued that the applicant has produced the disability certificate of the

respondent no.4 and his written objection before Sub Divisional Officer on 23-03-2016. Sub Divisional Officer by its order dated 18-05-2016 called for fitness certificate of Medical Superintendent, Rural Hospital, Phulambri issued by Medical Superintendent. After receiving medical certificate issued by Medical Superintendent, the appointment order dated 01-07-2016 appointing respondent no.4 as Police Patil has been issued by Sub Divisional Officer, Phulambri. It is argued that Medical Superintendent, Rural Hospital, Phulambri has not taken into consideration certificate issued by the Medical Board assessing disability of the respondent no.4 to the extent of 42%, and therefore, the applicant has prayed for quashing the appointment of respondent no.4 as Police Patil.

6. Learned P.O. and learned Advocate for respondent no.4 have submitted that the certificate dated 17-02-2010 on which the applicant has relied was issued long back in the year 2010. It does not disclose whether the disability was permanent or temporary and partial or total. It also does not disclose that whether due to the said disability, respondent no.4 is unfit to discharge her

duties as Police Patil. Respondents have submitted that it was one of the requirements for appointment to the post of Police Patil as per advertisement dated 25-01-2016 that the candidate should be physically fit and should produce fitness certificate from Medical Superintendent, Rural Hospital, Phulambri before his/her appointment. After being declared fit by the Medical Superintendent, the candidate would be selected and appointed on the post of Police Patil. Respondents have submitted that accordingly respondent no.4 has complied with the said condition, and therefore, Sub Divisional Officer has issued appointment order in favour of respondent no.4, and there is no irregularity or illegality in the order under challenge.

7. On perusal of the documents it reveals that as per requirements mentioned in the advertisement dated 25-01-2016, the candidates who have applied for the post of Police Patil must be physically fit and they have to produce physical fitness certificate at the time of verification of documents before appointment. The applicant has raised objection regarding physical fitness of the respondent no.4 before the Sub Divisional Officer

and relied on the disability certificate issued by the Board comprising of Civil Surgeon, Resident Medical Officer, Orthopedic Surgeon of Civil Hospital, Jalna dated 17-02-2010, which shows that respondent no.4 has 42% disability as her lower limb of right leg was affected but it is not specified whether the disability was permanent or temporary and partial or total. On considering the said certificate and objection raised by the applicant, Sub Divisional Officer referred the respondent no.4 for medical examination to Medical Superintendent, Rural Hospital, Phulambri. It was mentioned in the order dated 18-05-2016 that Medical Superintendent, Rural Hospital, Phulambri be informed regarding objection raised by the applicant and as regards disability certificate issued by the Medical Board consisting of Civil Surgeon, R.M.O., Orthopedic Surgeon, Civil Hospital, Jalna. Thereafter, respondent no.4 appeared before the Medical Superintendent, Rural Hospital, Phulambri for medical examination. She was examined by the Medical Superintendent and on her examination, he found that the applicant is physically fit to discharge duties as Police Patil, and he has not noticed any disability in the

respondent no.4. Accordingly, he issued certificate and informed the Sub Divisional Officer by his letter dated 16-06-2016. Thereafter, Sub Divisional Officer has issued appointment order dated 01-07-2016 appointing the respondent no.4 as Police Patil of village Sultanwadi, Tq. Phulambri, Dist. Aurangabad.

8. All the above facts show that there is no irregularity or illegality on the part of the respondent no.3 in appointing the respondent no.4 on the post of Police Patil of Village Sultanwadi, Tq. Phulambri, Dist. Aurangabad. There was no fault on the part of respondent no.3 in appointing the respondent no.4 as Police Patil of Village Sultanwadi. Therefore, I find no merit in the O.A. Consequently, the O.A. deserves to be dismissed. Hence, I pass following order:

**O R D E R**

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

**MEMBER (J)**