

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH NAGPUR**

ORIGINAL APPLICATION NO 16 OF 2015

DISTRICT : BHANDARA

Shri Kishore Namdeo Meshram,)
Occ : Village Kotwal – Lakhandur Saaza)
Number 25 and R/o: Kiramti, Post-Opara)
Tal-Lakhandur, Dist-Bhandara.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Department of Revenue & Forest,)
Mumbai 400 032.)
2. Collector, Bhandara.)
3. Mahesh K. Ghodewar,)
Occ : peon, Tahsil Office, Bhandara)
4. Dinesh Lalji Meshram,)
Occ : Peon, Collector Office,)
Bhandara.)...**Respondents**



Shri Shashikant Borkar, learned advocate for the Applicant.

Shri H.K Pande, learned Presenting Officer for the Respondents no 1 & 2.

None for Respondents no 3 & 4.

CORAM : Shri Rajiv Agarwal (Vice-Chairman) (A)
Shri J.D Kulkarni (Vice-Chairman) (J)

DATE : 10.03.2017

PER : Shri Rajiv Agarwal (Vice-Chairman) (A)

ORDER

1. Heard Shri Shashikant Borkar, learned advocate for the Applicant, Shri H.K Pande, learned Presenting Officer for the Respondents no 1 & 2 and None for Respondents no 3 & 4.

2. This Original Application has been filed by the Applicant who is working as a Kotwal and who has challenged the selection of Respondents no 4 & 5 to the post of Peon by the Respondent no. 2, ignoring the claim of the Applicant.

3. Learned Counsel for the Applicant stated that Government has issued a Circular dated 19.7.2001



which prescribes the procedure for giving appointment to Kotwals in Group -D posts in Revenue Department. 25% of the post in Revenue Department are reserved for promoting Kotwals to the post of Peon by G.R dated 24.2.2012. Respondent no. 2 has accordingly decided to promote 4 Kotwals as Peon and 20 persons including the Applicant and Respondents no 3 & 4 were called for selection process, which includes the following criteria as per Circular dated 19.7.2001.

“यानंतर जे कोतवाल विचार क्षेत्रात येत असतील त्यांची यादी तयार करून वर्ग-४ च्या पदावरील नियुक्तीसाठी पुढीलप्रमाणे १०० गुणांपैकी गुण देवून पुढील मुददे विचारांत घेवून गुणवत्तेनुसार वर्ग-४ साठी निवड करण्यात यावी.

अ. विचार क्षेत्रात येणारे उमेदवार - ३५ गुण

ब. शैक्षणिक अर्हता, एस.एस.सी. व अधिक - १० गुण

क. पाच वर्षावरील सेवा प्रत्येक वर्षाच्या सेवेकरीता - ३ गुण

ड. मौखिक / व्यक्तिमत्त्व चाचणी - १० गुण

(यामध्ये कोणत्याही उमेदवारास ३ पेक्षा कमी व आठपेक्षा जास्त गुण देण्यात येवू नयेत.)


Learned Counsel for the Applicant stated that for the post of Kotwal and Peon the essential educational qualification is 4th class pass. However, in the aforesaid Circular it is stated that more marks are required to be given to those who have the qualification of SSC or above. This is created as a class within the cadre of Kotwals and those having S.S.C qualificaion are given preference over other Kotwals, which is discriminatory and arbitrary. Learned Counsel for the Applicant stated that persons

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who are S.S.C or more qualified will have undue advantage over the persons like the Applicant who are only 4th class pass. This condition is, therefore, illegal and has to be struck down. The selection process should be conducted without giving any marks to those having qualification of SSC and above.

4. Learned Presenting Officer stated that in any selection process it is within the powers of the employer to prefer persons who are more qualified. The Respondents no 3 & 4 have qualification of S.S.C and above, and were therefore, granted marks accordingly as per Circular dated 19.7.2001. The Applicant has not made any complaint about the selection process and having participated in the same, he cannot now challenge the same.

5. We find that the only ground on which the Applicant is challenging the selection of Respondents no 4 & 5 is that they were given more marks in the selection process as they had educational qualification of SSC and above. However, this was done strictly in accordance with the instructions contained in Government Circular dated 19.7.2001. We are, unable to accept the contention of the Applicant that no weightage should be given to the candidates who have higher educational qualification. The State is within its right to prescribe any suitable criteria for selection of candidates for a particular



category. If persons having higher qualifications are given some weightage, that is a normal practice. We do not see any violation of any rule or regulation in this regard. The claim of the Applicant that by awarding more marks to those having higher educational qualification discrimination is practiced against him, has no merit.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

sd/-

(J.D Kulkarni)
Vice-Chairman (J)

sd/-

(Rajiv Agarwal)
Vice-Chairman(A)

Place : Nagpur
Date : 10.03.2017
Dictation taken by : A.K. Nair.