

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 290 OF 2022

DIST. : JALNA

Aasif S/o Kalekhan Parsuwale,)
 Age. 25 years, Occ. Education,)
 R/o Majarewadi, Tq. & Dist. Jalna.) .. **Applicant**

V E R S U S

1. The State of Maharashtra,)
 Through its Secretary,)
 Home Department, Mantralaya,)
 Mumbai.)

2. The Superintendent of Police,)
 Jalna, District Superintendent of)
 Police, Near Collector Office, Jalna.)

3. Superintendent of Police,)
 State Reserve Police Force-3,)
 Jalna.)

4. Santosh S/o Subhash Suparkar,)
 Age. 29 years, Occ. : Service,)
 State Reserve Police Force-3, Jalna.) .. **Respondents.**

 APPEARANCE :- Shri Sandeep N. Lutte, learned Advocate
 for the applicant.

: Shri V.R. Bhumkar, learned Presenting
 Officer for the respondent authorities.

: Shri C.V. Bhohke, learned counsel
 holding for Shri R.N. Gore, learned
 counsel for respondent no. 04.

 CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar,
Member (A)

DATE : 5th August, 2024

ORAL - ORDER

[Per :- Justice P.R. Bora, V.C.]

1. Heard Shri Sandeep N. Lutte, learned counsel for the applicant, Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities and Shri C.V. Bodhke, learned counsel holding for Shri R.N. Gore, learned counsel for respondent no.04.

2. The applicant had applied for the post of Police Constable Driver from NT-B category in pursuance of the advertisement issued in the year 2019 by respondent no. 02. On 24.02.2022, the respondent no. 02 published list of selected candidates along with marks secured by the said candidates. The applicant has received 121 marks, whereas respondent no. 04 secured 128 marks. Accordingly, respondent no. 04 was selected from the category of NT-B and the applicant was listed in the waiting list at sr. no. 01 as he secured 121 marks. It is the grievance of the applicant that at the time when respondent no. 04 applied for the present post, he was serving in State Reserve Police Force (for short S.R.P.F.) but he did not disclose the said information in his application and hence was not liable

to be considered for appointment on that ground alone. Learned counsel submitted that even the respondent no. 04 could not have applied for the post of Police Constable Driver unless expressly permitted by his superior under whom he was working. Learned counsel submitted that the advertisement was quite unambiguous in this regard and when respondent no. 04 has committed such gross-errors, his selection on the subject post cannot be sustained. Learned counsel submitted that if the appointment order of respondent no. 04 set aside, right get accrued in favour of the applicant, who is at sr.no. 01 in the waiting list. Learned counsel therefore prayed for allowing the present Original Application.

3. Respondent nos. 01 and 02 have filed joint affidavit in reply and respondent no. 03 has independently filed his affidavit in reply. As is revealing from the affidavit in reply filed on behalf of aforesaid respondents, the enquiry was conducted against the applicant for not taking prior permission before making application for the post of Police Constable Driver in pursuance of the advertisement issued by respondent no. 02 and in the said departmental enquiry minor punishment was imposed upon the applicant that of 'Censure'. It is further revealed that since the applicant sought voluntary retirement

from the post of Police Shipai in S.R.P.F. i.e. respondent no. 03 within 03 years of his service, he was required to deposit the entire amount of salary paid to him during the said period, as well as, the expenses incurred on him during the period of his training. The contents of the affidavit in reply of the aforesaid respondent no. 03 further revealed that respondent no. 04 accordingly deposited the said amount. In view of the above, the respondents have prayed for dismissal of the Original Application. Respondent no. 04 has not filed any affidavit in reply however the burden was on the applicant to substantiate his own contentions.

4. Having considered the facts as are revealing from the affidavit in reply submitted on behalf of respondent nos. 01 to 03 there appears no substance in the contentions raised in the O.A., as well as, prayer made therein. The applicant has not made out any case for cancellation of the appointment issued in favour of respondent no. 04. When the application was filed by the applicant it seems that by that time the appointment order was not issued in favour of respondent no. 04. From the record it is revealed that in the meanwhile respondent no. 04 came to be appointed. The applicant has however not made any amendment in his application. Since the applicant has failed in

substantiating the contentions raised in support of his prayer, the application deserves to be dismissed. Hence, the following order :-

ORDER

The Original Application stands dismissed, however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 5th August, 2024