

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1084 OF 2023
(Subject:- Police Patil)**

DISTRICT:- JALGAON

Nilesh S/o. Raychand Patil,)
Age- 41 Years, Occupation: Agriculture,)
R/o. Anore, Post Javkheda,)
Taluka-Amalner, Dist.- Jalgaon-425401)...**APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through its Secretary,)
Home Department,)
Mantralaya, Mumbai- 32.)
 - 2. The Collector,**)
Collector Office, Jalgaon-425001.)
 - 3. The Sub-Divisional Officer,**)
Amalner, Taluka-Amalner,)
District- Jalgaon- 425401.)
 - 4. Medical Board, Jalgaon**)
Through its President,)
Government Medical College &)
Hospital, Jalgaon, Civil Hospital)
Campus, Dist. Jalgaon-425001,(M.H.)
 - 5. Medical Officer,**)
Rural Hospital Amalner,)
Station Rd, near LIC Office,)
Sai Shradhha Nagar, Sane Nagar,)
Amalner, Taluka-Amalner,)
District-Jalgaon-425401.)
 - 6. Vinod Nimba Patil**)
Age-41 years, Occu. Police Patil)
R/o. Anore, Post Javkheda,)
Tal. Amalner, Dist. Jalgaon-425401.) ...**RESPONDENTS**
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APPEARANCE : Shri P.B. Patil (Borse), learned counsel for the applicant.
: Shri D.M. Hange, learned Presenting Officer for the respondent authorities.
: Shri Yogesh H. Jadhav, learned counsel for respondent No.6.

CORAM : **Shri A.N. Karmarkar, Member (J)**

RESERVED ON : **31.01.2025.**

PRONOUNCED ON : **05.02.2025.**

ORDER

The applicant has prayed for quashing order dated 01.12.2023 passed by respondent No.3 i.e. Sub-Divisional Officer, Amalner on the objection application filed by the applicant. He has also prayed for quashing appointment order of respondent No.6 dated 04.12.2023 to the post of Police Patil of village Anore, Taluka- Amalner, District- Jalgaon and also seeking directions to the respondents to appoint the applicant to the said post.

2. In response to the proclamation/advertisement dated 14.07.2023 inviting application for the post of Police Patil this applicant has applied for the said post. The applicant and respondent No.6 were found qualified for the interview. On 17.08.2023, the applicant filed objection contending that the respondent No.6 met with an accident prior to about 9 to 10 years and he is physically disabled person. He did not comply the

condition of proclamation dated 14.07.2023, which suggest that the candidate should be physically fit. The respondent No.3 issued show cause notice to the respondent No.6 on which he has replied about his physical fitness and attached the medical certificate. According to the applicant the respondent No.6 has concealed the fact of his 30% loco-motor disability while applying for the post of Police Patil. Meantime, the interviews were held and the merit list was published on 25.08.2023. The respondent No.6 stood first for being appointed as a Police Patil subject to report of Civil Surgeon.

3. Being aggrieved by the inaction on the part of the respondent No.3, this applicant filed complaint dated 28.08.2023 before the Collector, Jalgaon which was decided on 10.11.2023 with the observation that the respondent No.3 i.e. the Sub-Divisional Officer, Amalner to decide the matter after receipt of report from Civil Surgeon, Jalgaon. The medical board did not consider 30% disability of the applicant as disqualification for appointment as a Police Patil. Accordingly, the objection application of the applicant was dismissed by the respondent No.3. The respondent No.3 has issued appointment order dated 04.12.2023 in favour of the respondent No.6.

4. This application is filed on the ground that the respondent No.3 failed to consider clause No.5 of advertisement which prescribes requisite qualification for the post of Police Patil.

The objection of the applicant is not properly considered. The respondent No.3 has failed to appreciate the duties of Police Patil as mentioned under Sections 6,7,8,12 & 13 of the Maharashtra Village Police Act, 1967. The Sub-Divisional Officer, Amalner has blindly relied on the medical certificate given by the respondent No.4 i.e. the Medical Board, Jalgaon. The medical certificate dated 10.11.2023 is unsustainable as it does not contain any reason.

5. The respondent Nos. 2 and 3 have filed affidavit in reply. According to them the applicant and the respondent No.6 were held eligible for interview purpose which was scheduled on 24.08.2023. The applicant has filed written objection dated 17.08.2023 stating that the respondent No.6 is unfit to render the services of Police Patil as he having disability due to accident. The respondent No.3 has called explanation from the respondent No.6. He has contended in the explanation about his physical fitness and produced the medical certificate. They have denied the contentions of the applicant about concealment of fact of disability by respondent No.6. According to them specific column No. 15 is there in the advertisement wherein aspirant has to disclose the details regarding fitness certificate issued by the competent medical officer or the concerned superintendent of Rural Hospital. The applicant and the respondent No.6 have taken care to mention 'YES' against the column No.15 of the application form. The

medical fitness certificates of both the candidates were examined on 21.08.2023 i.e. prior to interviews which were conducted on 24.08.2023. The merit list was published on 25.08.2023. The respondent No.6 and the applicant have got total 61 and total 52 marks respectively. The respondent No.2 i.e. The Collector, Jalgaon has also immediately vide order dated 10.11.2023 disposed of the complaint/objection of the applicant.

6. The respondent No.3 has already vide communication dated 23.08.2023 requested to the Civil Surgeon, Jalgaon to verify the physical fitness certificate dated 26.07.2023 issued by the Medical Officer, Rural Hospital, Amalner. The respondent No.3 has also vide communication dated 18.10.2023 requested the respondent No.4 i.e. Medical Board, Jalgaon to examine the respondent No.6 and give report about his physical fitness to render the activities of Police Patil. The Medical Board after examining earlier medical report and physical fitness of respondent No.6 issued certificate dated 10.11.2023. They have observed that they do not consider 30% loco-motor disability as disqualification for employment in the office of respondent No.3 to the post of Police Patil.

7. The respondent No.6 has filed his affidavit in reply. According to him he has not concealed any information as alleged by the applicant. He has produced certificate issued by Medical

Officer, Rural Hospital, Amalner. The respondent No.3 has rightly passed the impugned order dated 01.12.2023 on the basis of report of Medical Board. The only requirement in the advertisement is that the applicant should be physically capable. There is no condition that the candidate should not have physically disabled or should not be handicapped. The father of the applicant was serving as a Police Patil of village Anore from 1984 to 2016. So the applicant was thinking that the he also should become Police Patil.

8. I have heard Shri P.B. Patil (Borse), learned counsel for the applicant, Shri D.M. Hange, learned Presenting Officer for the respondent authorities and Shri Yogesh H. Jadhav, learned counsel for respondent No.6. They have submitted as per their respective contentions.

9. In support of his case, learned counsel for the respondent No.6 has submitted that there were identical facts in a case of **Vandana w/o Vishnu Dudhe Vs. The Secretary & Ors. (O.A.No. 661 of 2016)**, which was dismissed by this Tribunal. The applicant in that matter also challenged the said order before the Hon'ble High Court vide Writ Petition No. 9789/2017 where the judgment in case of O.A.No. 661/2016 was confirmed.

10. Learned counsel for the applicant has also submitted that in that matter the certificate was not showing that the

disability was permanent, but in the present matter the certificate which is at page No.50 shows that the respondent No.6 has 30% disability.

11. It is undisputed that the applicant and the respondent No.6 have applied for the post of Police Patil of village Anore, Taluka-Amalner, District-Jalgaon. It is also undisputed fact that they both secured 43 and 52 marks respectively in the written examination. The affidavit in reply of respondent Nos. 2 and 3 shows that they both were held eligible for interview which was scheduled on 24.08.2023. The applicant is challenging the appointment of respondent No.6 on one of the ground that the respondent No.3 failed to consider clause No.4 of the Selection Procedure in advertisement and also failed to consider clause No. 14 that is Police Patil is required to do field work. So the candidate must be physically competent.

It appears that the applicant has submitted his written objection to the respondents on 17.08.2023 i.e. before the date of interview. It was contended that the respondent No.6 met with an accident prior to 9 to 10 years and he is disabled. On that basis the respondent No.3 i.e. the Sub-Divisional Officer, Amalner has called explanation from the respondent No.6. The respondent No.6 has given his written explanation (page No. 35) along with copy of physical fitness certificate. The applicant seems to have addressed

a letter to Sub-Division Officer, Amalner dated 23.08.2023 intimating that the respondent No.6 has got certificate of disability which is at page No. 50. The applicant has come with the case that the respondent No.3 i.e. Sub-Divisional Officer, Amalner has published final merit list dated 25.08.2023. The respondent No.6 was found to be topper so far as marks are concerned. He was selected for being appointed as Police Patil subject to report of Civil Surgeon. That document is 'Annexure 'A-6' (page No. 10).

12. It appears that the applicant has again forwarded objection to the Collector, Jalgaon dated 28.08.2023. It appears from the document (page Nos. 45 & 46) that the respondent – Collector, Jalgaon has directed the respondent No.3 –Sub-Divisional Officer, Amalner Division to pass orders pertaining to Police Patil of village Anore, Tal. Amalner, Dist. Jalgaon after taking into consideration the report from the Civil Surgeon, Jalgaon.

13. Considering the objection raised by the applicant it is necessary to reproduce certain relevant eligibility conditions and relevant clauses pertaining to Selection Procedure in proclamation/advertisement (page Nos. 22 to 29). Relevant clause pertaining to eligibility is Clause No.5 which is as under:-

“पोलीस पाटील पदासाठी किमान आवश्यक अर्हता:-

(५) अर्जदार शाररिकदृष्ट्या सक्षम असावा व अर्जदाराचे चारिज्य निष्कलंक असणे आवश्यक आहे.”

There is relevant clause No.4 under the heading of Selection Procedure, Terms and Conditions, which reads as under:-

“निवड कार्यपध्दती, अटी व शर्ती:-

(४) अर्जदार शारिरीकदृष्ट्या सक्षम असल्याबाबतचे अधिक्षक, ग्रामिण रुग्णालय यांचे अथवा वरिष्ठ वैद्यकीय अधिकाऱ्यांचे प्रमाणपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल व अर्जदाराची पात्रता वैद्यकीय तपासणी अंतीच निश्चित करण्यात येईल.”

Above referred clauses show that the candidate to be appointed to be post of Police Patil should be physically capable and he should have good character. Clause No.4 of the Selection Procedure shows that the candidate is required to produce certificate from the Superintendent, Rural Hospital or Senior Medical Officer regarding physical fitness at a time of verification of documents. Clause No.1 under the heading of Selection Procedure, Terms and Conditions of the same advertisement shows that for the purpose of final selection as per the merit, the candidate is required to make available documents pertaining to his eligibility and other documents, otherwise they will not be considered for oral interview. This clause makes it clear that eligibility documents are required to be produce before the date of interview. It is clear from the affidavit in reply of respondent Nos. 2 and 3 that the interviews were scheduled on 24.08.2023. It appears that the respondent No.6 has produced his explanation contending about his physical fitness on 23.08.2023 along with physical fitness certificate issued by the Medical Officer, Rural Hospital, Jalgaon. So it is clear that the physical fitness certificate was supplied by the respondent No.6 before the scheduled

date of interview. So the respondent No.6 seems to have complied that part.

14. The applicant has placed on record final merit list (page No.40) which shows that the applicant and respondent No.6 have got total 52 and 61 marks (in written and oral tests) respectively. It also appears that the respondent No.6 was topper and his selection was held to be subject to report from the Civil Surgeon, Jalgaon. It is already discussed above that the respondents-Collector, Jalgaon has passed order on objection application of the applicant vide order dated 10.11.2023 that the respondent No.3 i.e. Sub-Divisional Officer, Amalner would take decision regarding appointment of Police Patil of village Anore after receipt of report from Civil Surgeon, Jalgaon. The respondent Nos. 2 and 3 have filed documents along with their reply (page Nos. 62 to 66). The Sub-Divisional Officer, Amalner has sought opinion from the Civil Surgeon, Jalgaon vide letter dated 23.08.2023 as to whether the respondent No.6 is physically fit for the post of Police Patil of village Anore, Taluka- Amalner, District- Jalgaon. Number of disability certificate of respondent No.6 is also referred in the said letter.

15. In response to the said letter the Civil Surgeon has informed the Sub-Divisional Officer, Amalner to make communication with the Medical Board regarding examination of disabled person. Accordingly, the Sub-Divisional Officer, Amalner has forwarded letter dated 18.10.2023 to the Medical Board i.e.

Civil Surgeon, Jalgaon to examine the respondent No.6 and to submit report whether he is fit to be appointed to the post of Police Patil. The medical certificate issued by the Medical Board (page No. 66) shows that they have referred about 30% loco-motor disability of the respondent No.6 but the Medical Board has given specific opinion that they do not consider this as disqualification for employment/job as Police Patil.

16. The respondent Nos. 2 and 3 have contended in the affidavit in reply that since the Medical Board found respondent No.6 to be fit for the appointment on the post of Police Patil, they have given appointment on 04.12.2023.

17. In support of his contentions, the respondent No.6 has relied upon the judgment of this Tribunal in a case of **Vandana w/o Vishnu Dudhe Vs. The Secretary & Ors. (O.A.No. 661/2016)** wherein the respondent No.4 was having 42% disability. In that matter also on the basis of objection of the applicant the respondent No.4 in that matter was referred to the Medical Superintendent, Rural Hospital, Phulambri who found respondent No.4 physically fit to discharge duty as Police Patil. Therefore, the Sub-Divisional Officer in that matter gave appointment order to the respondent No.4 in it. It was observed by this Tribunal in that matter that there is no irregularity or illegality on the part of Sub-Divisional Officer in appointing the respondent

No.4 in that matter. The respondent No.6 has also placed on record the copy of judgment passed by the Hon'ble High Court of Bombay, Bench at Aurangabad in Writ Petition No. 9789/2017 by which the applicant in O.A.No. 661/2016 has challenged the order in that matter. The judgment in O.A.No. 661/2016 was confirmed by the Hon'ble High Court of Bombay, Bench at Aurangabad.

18. Learned counsel for the applicant has referred one of the specific sentence in paragraph No. 4 of judgment in Writ Petition No. 9789/2017 that the certificate in it nowhere shows that it is a permanent disability. Accordingly to him, the disability certificate of the respondent No.6 shows that the respondent No.6 has 30% permanent disability in relation to right leg. The Medical Board has specifically referred this 30% disability of the respondent No.6 in their certificate (page No.66) and as they found that they do not consider this as disqualification for the employment as Police Patil. Therefore, there is no substance in the submissions of learned counsel for the applicant.

Learned counsel for the applicant has also tried to raise ground that the respondent No.6 has suppressed two information regarding physical fitness while submitting application for the post of Police Patil and has not mentioned about 30% loco-motor disability. The respondent Nos. 2 and 3 have specifically mentioned in paragraph No.6 of the affidavit in reply that the

applicant as well as the respondent No.6 have mentioned against column No. 15 in the application form as 'YES'. That clause is pertaining to information as to whether the candidate has got certificate from Superintendent, Rural Hospital or Senior Medical Officer pertaining to physical fitness. Secondly as per clause No.1 of the advertisement for Selection Procedure this eligibility document needs to be produced before interview. So it cannot be said that there is substance in the objection of the applicant. So the above discussions lead me to say that there is no irregularity or illegality on the part of respondent No.3- Sub-Divisional Officer, Amalner by issuing order of appointment in favour of the respondent No.6 to the post of Police Patil of village Anore, Taluka- Amalner, Dist. Jalgaon. The Original Application is thereof deserves to be dismissed. Hence, the following order:-

ORDER

- (A) Original Application is hereby dismissed.
- (B) In the circumstances, there shall be no order as to costs.
- (C) Original record be returned to the concerned P.O.

MEMBER (J)