

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 365 OF 2019
(Subject:- Kotwal)**

DISTRICT:- JALGAON

Nilesh Walmik Mahajan,)	
Age:33 years, Occu: Nil.,)	
R/o. Shingadi, Tq. Raver,)	
District Jalgaon.)	...APPLICANT

V E R S U S

- | | | |
|---------------------------------------|---|-----------------------|
| 1. The Sub Divisional Officer, |) | |
| Faizpur Division, District-Jalgaon. |) | |
| 2. Sharda Bajirao Patil, |) | |
| Age: Major, Occu.: Service as Kotwal, |) | |
| R/o. Shingadi, Tq. Raver, |) | |
| District Jalgaon. |) | |
| 3. Tahasildar, |) | |
| Tahasil Office, Station Road, |) | |
| Tal. Raver, Dist. Jalgaon. |) | ...RESPONDENTS |

APPEARANCE	:	Shri V.B. Wagh, learned counsel for the applicant.
	:	Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities.
	:	Shri A.D. Gadekar, learned counsel for respondent No.2.

CORAM	:	Shri A.N. Karmarkar, Member (J)
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RESERVED ON	:	07.03.2025.
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PRONOUNCED ON	:	11.03.2025.
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ORDER

The applicant is seeking relief of declaration that he is entitled for the post of Kotwal of village-Shingadi, Tq. Raver, Dist. Jalgaon. He has also prayed for setting aside the selection and appointment of respondent No.2 to the post of Kotwal dated 15.11.2018 and that the respondent No.1 be directed to appoint the applicant on the said post.

2. In response to the advertisement published by respondent No.1, the applicant had applied for the post of Kotwal. The applications were invited within the period of 24.08.2018 to 14.09.2018. The respondent has conducted written examination and the program was scheduled for interview on 31.10.2018 of the eligible candidates. The candidates were directed to produce all original certificates for verification. According to the applicant, the committee has taken decision about allocation of marks during the interview. Secondly as per assessment marks, 25 marks need to be obtained as per qualification and additional qualification. The respondent authority has published the list of candidates who had obtained marks in written as well as in oral test. The respondent No.2 shown to have obtained 62 marks and 21 marks in written and oral test respectively i.e. 83 total marks. On the other hand the applicant shown to have obtained 65 and 15 marks in written and oral test respectively i.e. 80 marks.

The applicant has raised an objection that he was not considered for the post of Kotwal though he obtained 65 marks in written examination. He has also raised an objection that as per decision of assessment of marks, the authority has not given the marks to the extent of 11 marks for graduation, two marks for MS-CIT and three marks for N.S.C. Certificate. He forwarded complaint application dated 06.11.2018 to the respondent No.1. The respondent No.1 has communicated to the applicant on 29.11.2018 that the respondent No.2 has obtained more marks and his application was decided accordingly. According to the applicant, the respondent No.2 is holding qualification of H.S.C. and she does not possess any other certificates. So she is entitled to get only 10 marks as per her education of 12th standard. However, the authority has extended 21 marks to her in oral test. It is contention of the applicant that there is illegality on the part of the respondent No.1. Since the applicant is having qualification of graduation, MS-CIT and N.S.S. he has entitled to get 16 marks (11+2+3) and the respondent No.2 will get only 10 marks. So the total marks of the applicant would be 81 marks and that of respondent No.2 would be 72 marks.

3. The respondent No.1 has filed affidavit in reply (page No. 41). According to them, they have published advertisement for the post of Kotwal for village Shingadi which is for open category.

This respondent has denied all the allegations of the applicant. He has contended that no such guidelines are given by the State Government for assessment/allocation of marks during interview process. As per the advertisement some restrictions were imposed for eligibility. One of the conditions at Sr. No. 8 of the advertisement is that the candidate should obtain minimum 34 marks in the written test. In all three candidates who obtained minimum 34 marks were allowed for oral interview test. This respondent No.2, present applicant and one Shri Pravin Pandit Koghe obtained total 83 marks, 80 marks and 69 marks respectively.

According to this respondent, the applicant has contended in complaint application dated 06.11.2018 that he has given correct answers to the questions which were asked to him during oral examination and still he is not selected. The said application was forwarded to the Sub-Divisional Officer, Faizpur for necessary action. The applicant was communicated by rejecting all his allegations that the process of recruitment for the post of Kotwal was undertaken as per rules and guidelines. They have specifically contended that there are no such written guidelines of marking system for the interview as contended by the applicant. Secondly the selection committee was entitled to give marks as per the performance and ability of such candidate. As

such, the respondent No.2 has obtained more marks than other two candidates and she was selected on merit. The educational qualification which was necessary for the post of Kotwal was 4th standard passed.

4. The respondent No.2, who is selected candidate has filed her affidavit in reply (page No. 48). In sum and substance she has contended that her selection was made by the selection committee on merit and she has fulfilled the criteria for appointment for the post of Kotwal of village Shingadi, Tq. Raver, Dist. Jalgaon.

5. I have heard Shri V.B. Wagh, learned counsel for the applicant, Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities and Shri A.D. Gadekar, learned counsel for respondent No.2. All the parties have submitted as per their respective contentions.

6. It is undisputed fact that the applicant and the respondent No.2 have participated in the written test for the post of Kotwal at village-Shingadi, Tq. Raver, Dist. Jalgaon. It is undisputed fact that the respondent No.2 was given appointment on the post of Kotwal as she has got highest marks.

7. The applicant has specifically come with a case that the interview committee had decided to give particular number of

marks during the course of interview to the candidates as per their qualifications and involvement in other activities. He has placed on record the copy of a sheet showing the specific number of marks to be given to the qualification or other activities which is annexure 'A-4' (page No. 23). It has to be noted that the said chart is not signed by any of the authority. During the course of arguments, learned counsel for the applicant has submitted that the marks are to be given during the oral test to the candidate as per this sheet and for that purpose she has filed a copy of scrutiny sheet and copy of marks obtained by other candidates as per the said sheet.

It appears that those documents are in respect of another candidate of different Tehsil, Jamner. The present matter is pertaining to Raver Tehsil. The applicant has also filed a copy of public notice regarding interviews for the post of Kotwal -2018 in Dist. Jalgaon. It is annexure 'A-3' (page No. 21). So it appears that there is different Selection Committee for different Tehsils in Jalgaon district. The respondent No.2 has specifically denied the contention of the applicant regarding the fact that the particular numbers of marks were to be given to the candidates as per qualification. They have contended that no such guidelines are given by the Government. They have specifically contended that there are no such written guidelines for giving of particular

number of marks. Secondly the selection committee has power to give the marks to the candidates as per their performance and ability. So the contention of the respondent is that the respondent No.2 was selected to the post of Kotwal on merit.

8. The documents pertaining to other candidates regarding appointment to the post of Kotwal in different Tehsils in same district has no concern with the present matter which is pertaining to Raver Tahsil. It appears from the merit list Annexure 'A-5' that the present applicant (Nilesh Walmik Mahajan) and respondent No.2 (Sharda Bajirao Patil) have got 65 and 62 marks respectively in the written examination. There was condition in the advertisement vide clause No. 8 (page No. 13) that the candidate who secures minimum 34 marks in the written examination will be eligible for participation in oral test, which will be of 25 marks. There is no condition for obtaining minimum marks out of 25 marks in the oral test. Another condition for eligibility for the post of Kotwal is that the candidate should have passed at least 4th standard examination. This applicant has specifically contended in the Original Application that the respondent No.2 has passed H.S.C. examination and the applicant is Graduate. This respondent No.2 has not disputed the contention of the applicant that she has passed 12th standard examination at a relevant time. So it is clear from the available

material on record that the applicant and the respondent No.2 were eligible for participation in the oral test.

9. Original record is called considering the contention of the applicant that particular numbers of marks were to be given to the candidates as per qualification, additional qualification or other activities. There is nothing in it to suggest that the interview committee has decided to give certain numbers of marks as per additional qualification or other activities as contended by the applicant. The applicant has not contended as to how he has raised the said ground that it was decided by the committee to give certain numbers of marks as per qualifications. The document Annexure 'A-4' does not bear signature of any of the authority. It is already discussed that the documents i.e. scrutiny sheet and the allocation of marks to different candidates as per qualification appears to be from different Tehsils for which different selection committee was formed.

The applicant has also contended that the applicant and the respondent No.2 should have been given the marks as per qualifications as given in Annexure 'A-4'. So he has moved complaint application dated 06.11.2018 to the respondent- Sub-Divisional Officer. This applicant has contended in that complaint application that he has submitted all relevant documents for verification. Secondly he has responded to the questions put to

him during the interview/oral test, but he is not selected. It appears that the respondent has specifically informed vide document Annexure 'A-7' (page No. 31) on 29.11.2018 that the respondent No.2 has got highest marks (62 marks in written test and 21 marks in oral test) i.e. total 83 marks while the applicant got (65 marks in written test and 15 marks in oral test) i.e. total 80 marks.

It has to be noted that the ground which is raised in the application about decision of committee to give numbers of marks as per qualifications/other activities is not mentioned in the written complaint dated 06.11.2018. On the other hand, allegations in the written application that in spite of giving answers to all the questions during the interview, he has not selected is not mentioned in the petition. The applicant seems to have raised different allegations in the petition and in the written complaint. The respondent No.2 has placed on record the copy of marks obtained by the applicant and the respondent No.1 vide Annexure 'R-1', page No.55 particularly page No. 56. It seems that the said document is signed by the Sub-Divisional Officer also. It also appears that there are other signatures to this document.

10. Learned counsel appearing for respondent No.2 tried to rely on the judgment passed by this Tribunal in a case of **Pawan**

Yuvraj Patil Vs. The District Collector, Jalgaon & Ors. (O.A.No. 435/2016). That matter was pertaining to challenge to selection of respondent No.7 to the post of Police Patil and one of the contention of the applicant was that though the applicant was more qualified than the respondent No.7, the committee members have given intentionally less marks to the applicant. So facts in that case appeared to be different. Similarly the judgment in a case of **Sharad S/o Ramdas Gadling Vs. the State of Maharashtra & Ors. (O.A.No. 343/2015)** relied by respondent No.2 can be distinguished on facts.

11. Thus the discussions in foregoing paragraphs lead me to say that applicant is not entitled for relief claimed. Thus, the present Original Application deserves to be dismissed. Hence, the following order:-

ORDER

- (A) The Original Application is hereby dismissed.
- (B) In the circumstances, there shall be no order as to cost.
- (C) Original record be returned to concerned Presenting Officer.

MEMBER (J)