

MAHARASHTRA ADMINISTRATIVE TRIBUNAL: MUMBAI

BENCH AT NAGPUR

O.A. No.226/2021

M.K.Sheikh Safi

Vs.

STATE OF MAHARASHTRA & ORS.

Shri A.L. Palikundwar, Id. counsel for the applicant.
Shri M.I. Khan, Id. P.O. for the respondent nos.1, 2 and 5.
None for Respondent nos.2 & 3.

**Coram : Hon'ble Shri Justice Vinay Joshi, Member (J) &
Hon'ble Shri Nitin Gadre, Member (A)**

Dated : 13/02/2025

Heard Shri A.L. Palikundwar, Id. counsel for applicant, Shri M.I. Khan, Id. P.O. for respondent nos.1, 2 and 5. None for Respondent nos.2 & 3.

1. The applicant was appointed on the post of 'Karagruh Rakshak' from 01/01/2009 and then he joined as a Police Constable on 31/12/2013. The applicant has appeared for the departmental examination for the post of Police Sub-Inspector, however, he was held ineligible due to non-compliance of the requirement of four years of past experience as Police Constable. Most of the facts are not in dispute that prior to 31/12/2013, the applicant has served as a 'Karagruh Rakshak' and then served on the post of Police Constable meaning thereby he had not completed four years of service on the post of Police Constable. It is the applicant's contention that though he did not complete four

years of service on the post of Police Constable, his prior service on the post of 'Karagruh Rakshak' ought to have considered while taking into account 4 years of experience.

2. The eligibility criteria as stated in Clause 4.3 of the G.R. dated 21/11/2017, specifically require 4 years experience prior to 01/01/ 2017 on the post of Assistant Police Inspector, Police Head Constable, Police Naik or Police Constable only. The criteria are very specific which do not consider the experience of other posts, such as in this case, the post of 'Karagruh Rakshak'. The applicant would submit that, since his service was in continuity, the said experience should be considered. Continuity in service is a different aspect, which is for the purpose of protection of pay scale and pensionary benefits.

3. In addition, the applicant would submit that he was permitted to appear for the examination and pass the same. Permitting a candidature to the examination does not foreclose the right to test his eligibility. On preliminary satisfaction, candidates are permitted with the view that, in case of rightful claim, their candidature shall not be thrown out of board. Therefore, passing of the examination would not eclipse the requisite experience criteria. In the circumstance rejection of applicants' candidature is well justifiable.

4. It is also submitted that the department has permitted him for appearing to the qualifying examination. Mere permission to appear in the

examination does not *ipso facto* qualify a person, but one has to pass the test of eligibility, which is the requirement for the post. In the circumstances, rejection of the applicant's candidature due to the lack of requisite experience cannot be faltered.

5. In view of above, application carried no merit hence **dismissed**.

Member (A)

kds

Member (J)