

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.655 OF 2018

**DISTRICT : Ahmednagar
SUB : Appointment**

Shri Rahul C. Mule,)
Age 20 Years, Occu: Nil, R/o A/P Shiral,)
Tal. Pathardi, Dist. Ahmadnagar.).....Applicant

V/s

The Commandant, State Reserve Police)
Force Group No.1, Ramtekdi, Pune 1.).....Respondent

Shri B. A. Bandiwadekar, learned Advocate for the Applicant.
Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent.

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman.
Hon'ble Shri Debashish Chakrabarty,
Member (A)

Reserved on : 01.04.2025

Pronounced on : 03.04.2025

Per : Hon'ble Shri M. A. Lovekar, Vice-Chairman.

JUDGEMENT

Heard Shri B. A. Bandiwadekar, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent.

2. In response to the Advertisement dated 05.02.2018 the Applicant applied online for the post of Police Constable from 'OBC' category. He cleared physical and written tests. The published list of the candidates showed that in the written test, the Applicant had secured 174 marks. The Applicant and others in this list were called for verification of documents on 26.04.2018. The Applicant

furnished all the documents except Non-Creamy Layer Certificate which, according to him, was lost on 29.03.2018 and about which he had lodged a complaint with Pathardi Police Station on 24.04.2018. The Applicant had obtained a fresh Non-Creamy Layer Certificate on 12.04.2018. Vide communication dated 04.05.2018, the Applicant was informed that the Certificate issued on 12.04.2018 could not be accepted because it was issued after the cut-off date. The Applicant visited the office of SDO, Pathardi on 04.05.2018 with a view to furnish extract of register showing that his Non-Creamy Layer Certificate was issued to him on 18.06.2015. This extract, however, was not accepted. Later on the Applicant tendered said extract and true xerox copy of original Non-Creamy Layer Certificate. His name still did not figure in the provisional select list. The SDO, Pathardi had issued Attested True and Certified copy of Non-Creamy Layer Certificate to the Applicant. Attempt to furnish these documents failed time and again. According to the Applicant, Non-Creamy Layer Certificate which was issued on 18.06.2015 and which was valid till the relevant date ought to have been accepted. By the impugned communication dated 31.05.2018, the Applicant was informed that he had not furnished original Non-Creamy Layer Certificate for the Year 2016-2017 and, therefore, he was held to be ineligible. Hence, this Original Application for following reliefs -

“By a suitable order/ direction, this Hon’ble Tribunal may be pleased to set aside the impugned order dated 31.5.2018 passed by the Respondent [EXHIBIT-A) under which he informed the Petitioner about being held as ineligible for appointment to the post of Police Constable in view of his failure to submit original Non-Creamy Layer Certificate for the year 2016-2017 at the time of verification of documents held on 26.4.2018 and accordingly the Petitioner be granted all the consequential service benefits.

b) By a suitable order / direction, this Hon'ble Tribunal may be pleased to hold and declare that on account of loss of original Non-Creamy Layer Certificate dated 18.6.2015 by the Petitioner, the Respondent was obliged to accept the duplicate xerox certified copy of the said certificate produced by the Petitioner at the time of verification of documents on 26.4.2018 before the Respondent and accordingly hold the Petitioner to be eligible for the post of Police Constable and accordingly he may be issued an order of appointment if he is otherwise suitable for the said post and accordingly the Petitioner be granted all the consequential service benefits.”

3. Stand of the Respondent is that since the Applicant did not furnish the original Non-Creamy Layer Certificate for the Year 2016-2017 before the cut-off date, he was rightly held to be ineligible since Para 21(iii) of the Advertisement had specifically stipulated that eligible candidates had to submit all the necessary documents before the cut-off date. According to the Applicant, the original Non-Creamy Layer Certificate was lost on 29.03.2018 and complaint was made to police on 24.04.2018 i.e. after about 25 days. This indicated that story of loss of Non-Creamy Layer Certificate could be cooked up. The Certificate issued on 12.04.2018 was for the Year 2018-2019 as against the prescribed requirement of production of such Certificate for the Year 2017-2018.

4. The Respondent has relied on the judgment of the Hon'ble Bombay High Court dated 28.09.2017 in **W.P. No.13933/2016 (MPSC V/s Smt. Puam Madage and 1 Anr.)**. In this case the facts are narrated as follows :-

“In response to the Advertisement for the post of Police Sub-Inspector (Pre) Examination, issued on 01/04/2014, Respondent No.1, applied from OBC Female category. She cleared the (Pre) Examination. Thereafter, Notification for (Main) Examination was issued on 12/08/2014. She had also cleared the (Main) Examination and by the letter dated 04/03/2015 she was called for physical test and interview to be held on 16/03/2015. It was at this stage that, on 09/03/2015, she applied for "Non-Creamy Layer Certificate" (NCL Certificate) from Tahsil Office. The physical test for the said post was held on 16/03/2015 and she qualified therein. However, on that day, she could not produce the NCL Certificate. As a result, she was not interviewed. Subsequently, on 20/03/2015, she produced the said NCL Certificate and requested the Petitioner to conduct her interview. However, the said request was refused by the Petitioner. As a result, though, Respondent No.1 has secured 159 marks, while cut-off for OBC Female was 146 marks, her name could not be found in the selection list. Being aggrieved by the placement of her name in the non-eligible candidates list, she filed Original Application No.379 of 2015 before the Tribunal.”

5. In Para 7 of the judgment conclusion drawn by the Tribunal was narrated as follows :-

“The Tribunal, however, vide its impugned order allowed the Original Application of Respondent No.1 holding that there was delay of just one or two days in furnishing the NCL Certificate and there was also sufficient cause for the delay, as stated in the letter written by Respondent No.1 to the Petitioner on 20/03/2015 and the said cause was the strike in the Tahsil Office at the relevant time. This Cause was not controverted by the Petitioner. It was further held that earlier also, the Petitioner has condoned such delay of

one or two days in submitting the documents in respect of other candidates appearing for other exams. Hence, there was no reason to reject the claim of Respondent No.1. Accordingly, her application was allowed and the Petitioner was directed to conduct her interview within three months and if she is found suitable, then recommend her for appointment to the post of Police Sub-Inspector from the category she would be found eligible.”

The Hon’ble High Court held that :-

“Thus, looked at it from any angle, in our considered opinion, no indulgence can be shown to such candidate, who remain negligent despite clear instructions. As rightly submitted by the Petitioner, showing indulgence to such candidates and that too in writ jurisdiction, which is extraordinary one and is normally to be exercised keeping in mind the principle of equity would be as good as acting arbitrarily against those candidates who have submitted the documents in time and acted diligently. Merely because in some cases which were found to be deserving, the Petitioner as granted some time for production of Certificates on receipt of the written request to that effect in advance, it cannot be said that the Petitioner should every time grant such extension even if the cause shown for the delay is not just; otherwise the very object of issuing the instructions and conducting the entire selection process as per the schedule would be disturbed. Such requirement of submission of Certificate, therefore, cannot be relaxed arbitrarily in favour of Respondent No.1 when it was binding on all other candidates. The impugned order passed by the Tribunal, therefore, needs to be quashed and set aside.”

6. In his Rejoinder, the Applicant has distinguished ruling in the case of **‘Punam’** (supra) as follows :-

“In the matter before the Hon'ble Bombay High Court, it was not the case of the candidate that for the reasons beyond her control, she could not produce the Non-Creamy Layer Certificate on the day of verification of the original documents. I say that in my case it is a fact that my original Non-Creamy Layer Certificate which I was required to produce before the Respondent on the day of the verification of documents, that the same was misplaced / lost in transit and in respect of which I had lodged complaint with the Police Station.

I say that from para 15 of the decision of the Hon'ble Bombay High Court, it is clear that in the peculiar facts of that case, the Hon'ble Bombay High Court reversed the decision of the Hon'ble Tribunal which was rendered in favour of the candidate, holding that the said candidate has shown utter callousness and negligence and therefore, does not deserve the sympathetic consideration. I say that in my case I deserve the sympathetic consideration, when all that happened in my case is about the loss of the original Non-Creamy Layer Certificate. This reason was beyond my control to produce the same before the Respondent on a particular day.”

7. Case of the Applicant is that his Non-Creamy Layer Certificate was issued on 18.06.2015. The extract of the concerned register supports this contention. It was valid up to 31.03.2018. On the date of verification of documents, the Applicant wanted to place on record true xerox and certified copies of the extract of relevant page of the concerned register which clearly showed that Non-Creamy Layer Certificate was issued to the Applicant on 18.06.2015. Case of the Applicant that his original Non-Creamy Layer Certificate was lost on 29.03.2018 cannot prima-facie be said to be unfounded. It may, however, be said that the Applicant did

not promptly lodge report with police about loss of the Certificate. The crucial aspect of the matter is whether on 18.06.2015 Non-Creamy Layer Certificate was issued to the Applicant. There is material to prima-facie show that such Certificate was issued to the Applicant on 18.06.2015. Once, this prima-facie conclusion is reached, it follows that the Applicant could not have gained anything by concocting the story of loss of Certificate on 29.03.2018. Record prima-facie shows that for the reasons beyond his control, the Applicant could not produce original Non-Creamy Layer Certificate before the cut off date. Under these circumstances, ends of justice would be met by directing the Respondent to conduct an enquiry regarding date of issue and loss of Non-Creamy Layer Certificate of the Applicant. It may be observed that the case of '**Punam**' (supra) is clearly distinguishable on facts. If the enquiry confirms that the Certificate was indeed issued on 18.06.2015, it was valid in the year 2016-2017 and it was lost about which the Applicant had lodged a complaint with Police, though not promptly the Applicant shall be held to be eligible and treated accordingly. The enquiry shall be completed within one month from the date of receipt of this order and decision of the enquiry shall be communicated to the Applicant forthwith. The Original Application is allowed in these terms with no order as to costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(M. A. Lovekar)
Vice-Chairman

Place: Mumbai

Date : 03.04.2025

Dictation taken by: V. S. Mane

D:\VSM\VSO\2025\Judgment 2025\Division Bench\O.A.655 of 2018 appointment.doc