

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.858/2023  
WITH  
MISCELLANEOUS APPLICATION NO.456/2023**

**DISTRICT:- AURANGABAD**

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1. Avinash Anandrao Bagal,  
Age : 43 years, Occ. Service as Asst. Police  
Sub Inspector – MVF Grade I,  
Police Central Workshop, Aurangabad,  
Tq. & Dist. Aurangabad.  
Plot No.26, Anandnagar,  
Behind Devgiri Valley, Mitmita,  
Aurangabad, Tq. & Dist. Aurangabad.
  2. Dnyoba Tukaram Chavan,  
Age 53 years, Occupation: Service as Asst.  
Police Sub Inspector - MVF Grade I,  
SRPF GR XII Hingoli, Tq. & Dist. Hingoli.
  3. Vijykumar Govindrao Mule,  
Age 46 years, Occupation: Service as Asst.  
Police Sub Inspector-MVF Grade I,  
M.T. Section Solapur Rural, Tq. & Dist. Solapur.
  4. Mahesh Rudrappa Sutar,  
Age 45 years, Occupation: Service as Asst.  
Police Sub Inspector-MVF Grade I,  
Body Building Section, Pune, Tq. & Dist. Pune.
  5. Ganesh Domaji Turankar,  
Age 49 years, Occupation: Service as Asst.  
Police Sub Inspector- MVF Grade I,  
P.C.M.T Workshop Nagpur, Tq. & Dist. Nagpur.
  6. Annasaheb Gopal Kosti,  
Age 48 years Occupation: Service as Asst.  
Police Sub Inspector - MVF Grade I,  
M.T. Section Ratnagiri, Tq. & Dist. Ratnagiri.

7. Amol Annasaheb Kamble,  
Age 44 years, Occupation: Service as Asst.  
Police Sub Inspector - MVF Grade I,  
M.T. Section SRPF GR XI, Navi Mumbai,  
Tq. & Dist. Navi Mumbai.

8. Kiran Vasantao Aswale,  
Age 52 years, Occupation: Service as Asst.  
Police Sub Inspector - MVF Grade I,  
M.T. Section SRPF GR V, Daund,  
Tq. & Dist. Daund.

**...APPLICANTS**

**V E R S U S**

1. The State of Maharashtra,  
Through the Principal Secretary,  
Home Department, Hutatma Rajguru Chowk,  
Madam Cama Road,  
Mantralaya, Mumbai-400 032.
2. The Director General of Police,  
Maharashtra State, Kulaba, Mumbai.
3. Addl. Director General of Police,  
and Director General of Police,  
Communication & Transport,  
Maharashtra State, Pune.
4. The Special Inspector General of Police,  
Motor Transport, Maharashtra State,  
Pune.

**...RESPONDENTS**

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APPEARANCE :Shri Shamsunder B. Patil, Counsel for  
the Applicant.  
:Shri M.P.Gude, Presenting Officer for the  
respondent authorities.  
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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN  
AND  
SHRI VINAY KARGAONKAR, MEMBER (A)**

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**Reserved on : 18-12-2023**

**Pronounced on : 04-01-2024**  
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**O R D E R****[Per : Shri Vinay Kargaonkar]**

1. Heard Shri Shamsunder B. Patil, learned Counsel for the Applicant and Shri M.P.Gude, learned Presenting Officer for the respondent authorities.

2. Brief facts of the case :-

(a) Applicants have completed ITI Motor Mechanic Course and subsequently have graduated in different faculties. Applicants were recruited as Police Constables Technician/Helper in Police Motor Transport Department on the basis of the written examination, practical test and oral examination conducted by Special Inspector General of Police, Motor Transport, M.S., Pune in the year 1994-1999.

(b) Applicants were subsequently promoted to the post of MVF Grade III (Police Naik), MVF Grade II (Police Hawaldar), MVF Grade I (Asst. Police Sub Inspector) through Departmental Promotion Examination from time to time. Addl. Director General of Police and Director General of Police, Communication & Transport, Maharashtra State, Pune has issued Circular on 20-07-2023 for holding departmental promotion examination 2023 for filling post of Police Sub Inspector in Motor Transport Department. In

the circular dated 20-07-2023 eligibility for appearing for the departmental promotions examination was holding the post of Assistant Police Sub Inspector (Motor Vehicle Fitter Grade I) and working in the Greater Mumbai Motor Transport Division of the post of Assistant Police Sub Inspector Technician Grade I (Fitter).

(c) The other conditions were that, (i) Assistant Police Sub Inspector Technician Grade I (Fitter) must have completed 3 years of service as on 31-07-2023, (ii) must possess valid motor driving license for driving heavy motor vehicles, and (iii) Actual work experience of motor vehicle repairs in Police Motor Transport Section of not less than 10 years.

(d) Respondent no.4 issued Circular on 04-08-2023 and invited applications from the eligible employees from the Motor Transport Department. In this Circular reference of the G.R. dated 25-05-1964 regarding eligibility criteria is given. Subsequently, on 24-08-2023 respondent no.4 issued corrigendum to the Circular dated 04-08-2023 and allowed all employees from Motor Transport Department who are at the level of Police Head Constable and have minimum 5 years of experience of maintenance and repair

of the vehicles in the work establishment of any Military/ Engineering (including Motor Transport Division) to appear for this departmental promotion examination.

(e) It is the contention of the applicants that Circular dated 04-08-2023 and 24-08-2023 allowed Head Constable having 5 years of experience to appear for the departmental promotion examination for Police Sub Inspector (Motor Transport) is totally illegal and contrary to the Rule and Manual. Being aggrieved by the Circular dated 04-08-2023 issued by respondent no.4, applicants have filed this O.A.

3. Submissions of the applicants :-

(a) The post of Police Sub Inspector (Motor Transport) on the establishment of Additional Director General of Police and Director Communication and Transport, Maharashtra State, Pune (Motor Transport Section) are governed by statutory rules promulgated by G.R. dated 25-05-1964. The relevant rules are as under:

*“1. Appointment to the post of Sub Inspector of Police, Motor Transport, shall be made either (a) by promotion of suitable departmental men in the Police Central Motor Transport Workshops or the Motor Transport Sections in the districts (including State Reserved Police Force Groups),*

*or (b) by nomination, provided that not more than 30 per cent of the posts shall be filled by promotion if the required number of such men is available.*

*2. To be eligible for appointment by nomination, a candidate should possess the following qualification:-*

*(a) ...*

*(b) ...*

*(c) ...*

*(d) Educational Qualification :*

*(e) Technical Education:*

*(i) A diploma in Automobile Engineering from a recognized institution and 3 years' practical experience in recognized motor workshop*

*Or*

*Five years' experience in repair and maintenance of motor vehicles in well established engineering works of military workshops..."*

Rule 4 is also relevant which is as under:

*4. Departmental men (i.e. the incumbents of posts of Head Constables, Driver Mechanics, Fitters, Turners, Welders, Electricians and Store-keepers) if they possess all the qualifications required for appointment by nomination may be allowed to compete for recruitment to the post of Sub Inspectors, Motor Transport, as if they are direct nominees."*

(b) Respondent no.4 has issued Circular dated 27-07-2023 for holding departmental promotion examination 2023 for the post of Sub Inspector of Police (Motor

Transport). The eligibility criteria for appearing for the said examination was that the candidates who hold the post of Assistant Police Sub Inspector Technical Grade (Motor Vehicle Fitter Grade I) working in the Police Motor Transport Section, Assistant Police Sub Inspector Technician (Motor Vehicle Fitter Grade I) in Maharashtra and Assistant Police Sub Inspector Technician Grade I (Fitter) working in the greater Mumbai Motor Transport Division. Other terms and conditions for the examination were as follows:

(1) Assistant Police Sub Inspector Technical Grade (Motor Vehicle Fitter Grade I) and Assistant Police Sub Inspector Technician Grade I (Fitter) must have completed 3 years of service as on 31-07-2023;

(2) Must possess valid motor driving license for driving heavy motor vehicles, and

(3) The actual work experience of motor vehicle repairs in Police Motor Transport Section is not less than 10 years.

(c) In the said circular dated 27-07-2023 the concerned authority has mentioned that departmental

promotional examination will be conducted as per Mumbai Police Manual 1959 and Maharashtra Police Manual 1999 Rule 182. In the rule 182, it is specifically mentioned particularly in clause no.5 that the candidate appearing for promotional post must have at least two years' experience on immediate lower post. As per this condition, to appear for the departmental promotion examination for the post of Police Sub Inspector Motor Transport, the applicants must work as Assistant Police Sub Inspector (Technician), which is immediate lower post of Police Sub Inspector Motor Transport.

(d) Respondent no.4 issued a Circular on 04-08-2023 and subsequently issued a corrigendum to that circular on 24-08-2023. By this corrigendum, all employees from Motor Transport Division who are at the rank of Police Head Constable and who have experience of minimum 5 years of maintenance and repairs of the vehicles in the workshop on any Military/Engineering (including Motor Transport Division) are eligible to appear for this departmental promotion examination for Police Sub Inspector (Motor Transport). It is contrary to the statutory rules of 1964 and Police Manual Rule 182. Candidates who have not worked on the immediate lower post of Police Sub

Inspector have been considered by this Circular, corrigendum dated 24-08-2023. By earlier Circular dated 20-07-2023, only Assistant Police Sub Inspector were allowed to compete for the departmental promotion examination for the post of Police Sub Inspector (Motor Transport). By Circular dated 04-08-2023 and by corrigendum dated 24-08-2023, the employees of the rank of Police Head Constable having 5 years' experience are allowed to appear for the departmental promotion examination for the post of Police Sub Inspector (Motor Transport).

(e) Due to corrigendum dated 24-08-2023 the claim of Assistant Sub Inspector for the departmental examination was extended by relaxing the condition in the recruitment rules of 1964 and it is contrary to Rule 182 of the Maharashtra Police Manual. Earlier, by Circular dated 10-04-2003 and 01-02-2008, promotion to the cadre of the post of Sub Inspector (Motor Transport) was given from the cadre of Assistant Police Sub Inspector Technician (MVF) Grade I only.

(f) Applicant has quoted the decision in O.A.No.24/2010 filed by the Motor Transport Supervisor

and Others. Applicants therein had challenged rejection of their candidature for the post of Police Sub Inspector (Motor Transport) regarding their practical vehicle repairing experience in Police Motor Transport section. This Tribunal had decided the same issue and rejected their application on the ground that the applicants did not possess requisite experience.

(g) Applicants have sought the relief that the respondent no.4 may be directed not to allow those candidates who are appearing in departmental examination for the post of Police Sub Inspector (Motor Transport) who are not fulfilling the criteria of statutory rules of 1964 and Rule 182 of the Maharashtra Police Manual, 1999.

4. Submissions of respondents :-

Eligibility criteria for the examination of departmental promotional post of Sub Inspector is mentioned in the G.R. No.MTS 1361/82002-XI Mumbai dated 25-05-1964 as well as in the Police Manual 1999 but the same are not clear and there is ambiguity in the G.R. and the Police Manual. Earlier, examination for the departmental promotional post of Police Sub Inspector (MT) was held as per Circular dated 01-02-2008 and accordingly

Circular dated 27-07-2023 was also issued. Since there are ambiguities in the G.R. dated 25-05-1964 and in the Police Manual, therefore, new draft of amended recruitment rules is submitted to the Government on 03-02-2023 for approval. After getting approval of the Government to the amended recruitment rules, examination for the departmental promotional post of Police Sub Inspector (MT) will be conducted as per new G.R.

5. Analysis of facts and conclusions:-

(a) Recruitment rules for Police Sub Inspector in Motor Transport Department are given in GR dated 25<sup>th</sup> May 1964. Relevant part of GR in Marathi is as follows:

“निर्णय :- या प्रकरणातील यापूर्वीचे सर्व आदेश अधिक्रमित करून शासन असा आदेश देत आहे की, पोलीस मोटार परिवहन विभागातील पोलीस उप-निरिक्षक पदांची भरती खालील नियमांकडून नियमित केली जाईल :-

(१) पोलीस मोटार परिवहन विभागातील पोलीस उप-निरिक्षक या पदावरील नेमणुक ही एकतर (अ) पोलीस मध्यवर्ती मोटार परिवहन कर्मशाळा किंवा जिल्हा मोटार परिवहन विभाग (राज्य राखीव पोलीस बल गटांसह) येथील योग्य विभागीय कर्मचा-यांना पदोन्नती देऊन किंवा (ब) नामनिर्देशनाद्वारे केली जाईल, मात्र जर आवश्यक त्या संख्येत योग्य विभागीय कर्मचारी उपलब्ध असतील तर अशी पदे पदोन्नतीद्वारे ३०% पेक्षा जास्त भरू नयेत.”

(b) Police Manual Part 1 Rule 182 also mentions about Examinations to be conducted for promotions in Motor Transport Department. Rule 182 (5) is as follows:

“१८२. मोटार परिवहन कर्मचा—यांकरिता परीक्षा :- सर्वसाधारण  
:- (दुरुस्ती क.१८१ नुसार सुधारित)

(१) .....

(२) .....

(३) .....

(४) .....

(५) कोणत्याही उमेदवाराने तो ज्या पदासाठी परीक्षा देत आहे त्या पदाच्या लगोलग खालील पदावर किमान दोन वर्षे सेवा पूर्ण केल्याखेरीज कोणत्याही उमेदवारास कोणत्याही पदासाठीच्या परीक्षेकरीता परवानगी देऊ नये. परीक्षा उत्तीर्ण होण्यासाठी ३ हून अधिक संधी देऊ नयेत. तरीही लायक प्रकरणांमध्ये १ जादा संधी देण्यात यावी.”

(c) Departmental promotions are governed by the Recruitment rules and the rules for promotion for the Police Sub Inspector in Motor Transport Department are ambiguous and not very clear. It does not specify which rank of Police men will be eligible for appearing for departmental examination for promotion to the post of Police Sub Inspector in Motor Transport Department.

(d) Respondents in their affidavit in reply have repeatedly reiterated that since there are ambiguities in respect of eligibility of the candidates for the examination therefore new draft of Amended Recruitment Rules is submitted to the government on 03-02-2023 for sanction. Examination for the departmental promotional post of Police Sub Inspector MT will be conducted as per new recruitment rules only after they are approved by the government.

(e) Provisions in Police Manual cannot override the recruitment rules. Circular issued by Respondent no.4 on 04-08-2023 and subsequent corrigendum dated 24/8/2023 is not inconsistent with the GR dated 25<sup>th</sup> May 1964 which is holding field as far as the promotions to the post of Police Sub Inspector (MT) are concerned. As long as the Circulars dated 04-08-2023 and 24-08-2023 are not inconsistent, arbitrary or bad in law, we do not see any reason to interfere in the promotional process for Police Sub Inspector in Motor Transport Department initiated by the respondent 4.

6. In view of the above following order is passed:

[i] OA is dismissed. Parties to bear the costs.

[ii] Government should take final decision about amendment in Recruitment Rules submitted on 03-02-2023 within four months from the date of this order.

[iii] M.A. stands disposed of accordingly.

**(VINAY KARGAONKAR)**  
**MEMBER (A)**

**(P.R.BORA)**  
**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 04-01-2024.**