

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO 463 OF 2024**

**DISTRICT : MUMBAI**

S.M Dabade & Ors )...**Applicants**

**Versus**

The State of Maharashtra & Ors )...**Respondents**

Shri S.S Dere, learned advocate for the Applicants.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)  
Shri Debashish Chakrabarty (Member) (A)**

**DATE : 25.04.2024**

**ORDER**

1. The Original Application pertains to 'Age Relaxation' for recruitment of Police Constable, Police Constable Driver, Bandsman, Armed Police Constable and Jail Constable for the year 2022-2023 and the guidelines of the Rural Development Department GR dated 15.05.2023 are relevant to examine the prayers of Applicants for 'Age Relaxation'. The learned Counsel for the Applicants submits that total 17471 posts of Police Constables are shown vacant and available for recruitment and accordingly, Advertisement was issued on 01.03.2024 by 'DGP, Maharashtra State'.

2. Learned counsel for the applicant has submitted that on 3.3.2023 the policy decision was taken by the Respondent-State of filling up 75000 posts on the occasion of Amrtu Mahotsav of Independence of India (75 years), the State Government has taken decision to give relaxation in age by 2 years. It also clarified that this relaxation will be applicable to the candidates who have applied pursuant to the advertisement issued during the period 3.3.2023 to 31.12.2023. It also said that the advertisements were issued prior to the date of the G.R. However, their date of submitting applications pursuant to those advertisement if not before 3.3.2023 then to those candidates also benefits of relaxation of age of 2 years is to be given. Learned counsel submitted that the advertisement for the recruitment of 17417 posts of Constables was issued by the Home Department on 1.3.2024, for the vacant posts of the year 2022-23 as the vacancy is counted upto 31.12.2023. Learned counsel further submitted that the Respondents have notified the Staffing Pattern Rules in October 2023. The requirement of the post of Constable was moved by the office of D.G.P after this G.R of 3.3.2023. However, as per that proposal the Home Department failed to issue the advertisement. Learned counsel further submitted that the Home Department was aware of the G.R of recruitment of 75000 posts and the age relaxation policy of the Government as per the Circular of G.A.D is binding on all the departments. However, the Home Department had knowledge, but it did not take steps well within time to issue the advertisement on or before 31.12.2023. Learned counsel further submitted that the applicants who are age barred as the Government did not issue the advertisement in time. Learned counsel submitted that this omission of the advertisement before 31.12.2023 has deprived the applicants of the benefit of age relaxation which is applicant to the other candidates who have applied in other advertisements which were issued within the

stipulated period is not available to the present applicants. Learned counsel further submitted that the Home Department works under different Rules, i.e., under the Maharashtra Police Act. Learned counsel submitted that the applicants who are not going to be age barred by giving the age relaxation till 31.12.2023 only are to be allowed to fill up the Application Form pursuant to this advertisement.

3. The learned Counsel for the Applicant relied on Section 3 of the 'Maharashtra Police Constable (Recruitment) Rules, 2011 :-

3. (1) A candidate for selection to the post of Police Constable in the Police Force shall be required to possess the educational and physical qualifications, as follows, namely:-

(A) Age.- Minimum 18 years, maximum 25 years.

(Maximum age limit in respect of Backward Class candidates shall be relaxable as per Government Policy in this regard laid down, from time to time.)

(B) Educational qualification.-Passed the Higher Secondary School Certificate Examination (XII th Standard) conducted by a Divisional Board under the Maharashtra Secondary and Higher Secondary Education Boards Act, 19G5 (Mall. XLI of 19(5), and includes any other examinations declared by the Government to be equivalent thereto.

(c) Physical qualification.-

Sr. No.	Female	Male
(i) Height...	Shall not be less than 155 centimeters	Shall not be less than 165 centimeters.
(ii) Chest...	...	Shall not be less than 79 centimeters deflated and the difference between deflated chest and expanded chest shall not be less than 5 centimeters.

4. The learned Counsel for Applicants also placed reliance on Clause 2 of GAD G.R. dated 17.12.2021 which reads as under:-

“कोरोनाचा प्रादुर्भाव कमी झाल्याने ज्या प्रकरणी नजीकच्या काळात जाहिराती प्रसिध्द झाल्या असून जाहिरातीमध्ये नमूद केलेला अर्ज करण्याचा शेवटचा दिनांक, या शासन निर्णयाच्या दिनांकानंतरचा असेल, अशा प्रकरणी देखील दि.०१ मार्च, २०२० ते या शासन निर्णयाच्या दिनांकानंतरचा असेल, अशा प्रकरणी देखील दि.१ मार्च २०२० ते या शासन निर्णयाच्या दिनांकापर्यंतच्या कालावधीत संबंधित पदाच्या सेवाप्रवेश नियमाद्वारे किंवा संदर्भाधीन दि.२५.०४.२०१६ च्या शासन निर्णयाद्वारे नियुक्तीकरिता विहित केलेली कमाल वयोमर्यादा ज्या उमेदवारांनी ओलांडली आहे, अशा उमेदवारांसाठी देखील ‘एक वेळची विशेष बाब’ म्हणून परीक्षेस बसण्याची संधी देण्यात येत आहे.”

5. The learned CPO for Respondents produces copy of Home Department letter dated 22.02.2016 regarding amendment in ‘Maharashtra Police Constable (Recruitment) Rules, 2011’ enclosed with Order of Home Department:-

“NO.RCT-0312/CR-228/Reconstruction-166/Pol-5A – In exercise of the powers conferred by clause (b) of Section 5 of the Mumbai Police At (Mumbai XXII of 1951) and of all other powers enabling it in that behalf, the Government of Maharashtra thereby amending the Maharashtra Police Constable (Recruitment) Rules, 2011 rules regulating recruitment to the post of Police Constable in the Police force under the Home Department of the Government of Maharashtra namely :-

1. These rules may be called the “ Maharashtra Police Constable (Recruitment) (Amendment) Rules, 2016.”-
2. The following changes should be done in rule 3 (1)(A) of the Maharashtra Police Constable (Recruitment) Rules 2011 :-  
“Age – Minimum 18 years, Maximum 28 years for Open Category and 33 years for Backward Class”.

6. Learned C.P.O while opposing the interim relief submitted that the G.R of 3.3.2023 is very clear. It does not permit age relaxation to the candidates applying for the advertisement issued after 31.12.2023. Learned CPO read over the G.R minutely and also pointed out the last portion of the said G.R. Learned C.P.O further argued that earlier on account of Corona Pandemic no advertisements were issued and therefore similar age relaxation of two years was given by earlier G.R dated 17.12.2021, as recruitment process was not conducted for any department as a

one-time special case. This age limit prescribed by G.R dated 25.4.2016 of giving extension of two years as a one time special case. Learned C.P.O further submitted that the said G.R was issued by G.A.D and thereafter the Mumbai Police issued advertisement dated 911.2022 for filling up 18331 posts and modified the Recruitment Rules by relaxing the age. She submitted that the said rules were modified as per powers conferred by clause (b) of Section 5 of the Mumbai Police Act (Mumbai XXII of 1951) The Recruitment Rules of Constables, 2011 in respect of age were modified. She submitted that no such Notification under section 5(b) of the Bombay Police Act is ever issued by the Home Department of the present recruitment of 1.3.2024. Therefore, she submitted no benefits of 5 years could be given to the applicants.

7. We have considered the Recruitment Rules. The relevant rules are reproduced below.

1. These rules may be called the “ Maharashtra Police Constable (Recruitment) (Amendment) Rules, 2016.”-
2. The following changes should be done in rule 3 (1)(A) of the Maharashtra Police Constable (Recruitment) Rules 2011 :-  
“Age – Minimum 18 years, Maximum 28 years for Open Category and 33 years for Backward Class”.

The said Rules were modified in the year 2016 and minimum age was made 18 to 28 years for open and 33 years for backward classes. The rule was modified and notified on 22.2.2016. Thus, the rule prescribed the age limit for Constables and if age limit is to be relaxed it is only for the Government to issue notification as they were issued earlier at the time of relaxation of age due to Corona Pandemic. However, in the present case such Notification of extending the age limit is not issued.

8. We refer to the G.R dated 3.3.2023. The said G.R was a policy decision of celebrating 75 years of Independence of India. The relaxation was given in order to fill up 75000 posts in Government service and so also to enable the candidates to appear for the examination who are age barred. It specifically states that the advertisement issued by 31.12.2023 this benefit of age relaxation is applicable and available. At the end of this advertisement the G.A.D had further specified that the advertisement which were issued after 31.12.2023 for the candidates applying pursuant to the advertisement issued after 31.12.2023 the age limit prescribed as per the G.R dated 25.4.2016 will only be applicable. Thus, it puts the limit of not applying this age relaxation benefits for the advertisement issued after 31.12.2023. The present advertisement is issued on 1.3.2024.

9. Prima facie, the submissions made by the learned counsel for the applicants that the omission to take quick steps within the time limit of 31.12.2023 has caused great injustice to the applicants and they are deprived of the benefits of age relaxation which is assured by the Government in G.R dated 3.3.2023, cannot establish any legal right in favour of the applicants. The Government machinery takes its own time for completing the procedure for the recruitment. Learned C.P.O has submitted that the policy decision was taken on account of Amrut Mahotsav of Independence of India (75 years) and the Home Department has counted earlier 18331 posts out of these 75000 posts. Ms Geeta Kulkarni, Joint Secretary, G.A.D, was present and she clarified that though the Government has declared recruitment of 75000 posts, the posts which were advertised and the recruitment process going on were found to be more than 100000. She defended that there was no intentional omission or unreasonable

apathy on the part of the Respondent-State to issue the present advertisement as the Respondent-State is required to take the steps of Staffing Pattern, apply the reservation policy in the recruitment process, which consumes considerable time. She pointed out that the entire programme of Staffing Pattern was ready only in October, 2023 and thereafter the matter was processed and the advertisement could be issued on 1.3.2024. She also submitted that the Police Department operates independently under the Bombay Police Act of the recruitment process by framing, notifying or modification in the Rules or other procedure. It is not controlled by G.A.D, though the G.Rs issued by G.A.D are applicable to Home Department.

10. In view of the submissions of both the learned counsel for the applicants and the learned C.P.O, our prima facie finding above, we are of the view that to relax the age was the policy decision of the State Government on account of celebration of 75 years of Independence of India. Therefore, the Home Department is directed to consider whether the age relaxation of two years in age could be extended in view of G.R of 3.3.2023, to the applicants who have applied pursuant to the advertisement dated 1.3.2024 and appropriate decision may be taken by the Home Department.

11. S.O to 13.6.2024 for filing affidavit in reply.

**Sd/-**  
**(Debashish Chakrabarty)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 25.04.2024**  
**Dictation taken by : A.K. Nair.**