

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
AURANGABAD BENCH AURANGABAD
ORIGINAL APPLICATION NO. 04 OF 2012**

DISTRICT :JALNA

Meena D/o Namdeo Bankar)
Age:20 Years, Occ: Nill,)
R/o: At Dalegavan, Tq. Jafrabad,)
Dist. Jalna.)...**Applicant**

VERSUS

1. The State of Maharashtra)
Through the Secretary,)
Home Department,)
Mantralaya, Mumbai – 400 032.)

2. Superintendent of Police Jalna,)
S.P. Office, Jalna.)...**Respondents**

Shri S.S. Dambe, learned Advocate for the Applicant.

Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal, Vice-Chairman
Shri J.D. Kulkarni, Member (J)**

DATE : 18.10.2016

PER : Shri Rajiv Agarwal, Vice-Chairman

ORDER

1. Heard Shri S.S. Dambe, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer (C.P.O.) for the Respondents.

2. This Original Application has been filed by the Applicant challenging her non-selection for the post of Police Constable from Open-Female category in the Police Recruitment -2011 in Jalna District though she had obtained more marks than the cut-off for the Open-Female Category.

3. Learned Counsel for the Applicant argued that the Applicant had applied for the post of Police Constable in Maharashtra State Police Recruitment -2011, from Jalna for which the advertisement was issued by the Respondent No.2 on 30.9.2011. The Applicant has applied for the post from Open-Female Category and obtained 149 marks in the selection process. The Applicant had submitted all the necessary documents in support of her candidature, including the Non-Creamy Layer (NCL) certificate. However, the Applicant was not selected though the last candidate selected from Open-Female category scored 140 marks, less than the marks obtained by the Applicant. Learned Counsel for the Applicant argued that the Applicant was clearly eligible to be selected from Open-Female Category and the Respondent No.2 may be directed to give appointment to the Applicant as Police Constable.

4. Learned Chief Presenting Officer (C.P.O.) argued on behalf of the Respondents that the Applicant had applied for selection to the post of Police Constable from Open-Female category. For Females seeking benefit of 30% horizontal reservation from Open category are required to produce Non-Creamy Layer (NCL) certificate. As per condition no.13 (1) in the advertisement dated 30.9.2011, all the certificates were required to be submitted which were issued before the last date of filing the application form, which was 1.11.2011 in the present case. The Applicant could not submit NCL certificate at the time of scrutiny of documents and agreed to be considered from Open Category (with no horizontal reservation). She gave an undertaking accordingly on 28.11.2014. Cut off marks from Open-Category were 184 and she was not selected. Learned C.P.O. argued that there is no merit in the present O.A.

5. We find that there was clear stipulation in the advertisement dated 30.9.2011 in para 16 (13) (1) that all certificates except Caste Validity Certificate should be submitted which were issued before the last date of submission of application form. Admittedly, the last date of submission of application form was 1.11.2011. The Applicant was asked to produce original documents for verification on 28.11.2011 and she could not produce NCL Certificate. She gave an undertaking, a copy of which is an Exhibit 'R-II' (page 32 of the Paper Book) admitting that she could not produce NCL certificate and agreed to be

considered from Open Category (with no horizontal reservation). These facts have been mentioned in para 10 of the affidavit in reply dated 7.3.2012 filed by the Respondent No.2. The Respondent No.2 has also enclosed a copy of document, viz. verification sheet of the Applicant, which clearly mentions that she didnot have NCL certificate. She had also given an undertaking which reads:-

“ माझ्याकडे वरील प्रमाणपत्र नसल्याने मी खुल्या प्रवर्गातून पोलीस भरतीसाठी मर्जीने उभी राहत आहे.”

The Applicant has not filed any affidavit in rejoinder to controvert these facts. The Applicant did not submit NCL certificate at the time of scrutiny of documents and was not eligible for benefit of horizontal reservation from Open Category.

6. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

(J.D. Kulkarni)
(MEMBER) (J)

(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 18.10.2016

Place : Mumbai

Dictation taken by : SBA

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