

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO. 189 OF 2018

DISTRICT : KOLHAPUR

Sarjerao Dagadu Patil,)
Age 40 years, Occ. Unemployed,)
R/o. at Post Pishavi, Tal Shahuwadi,)
District: Kolhapur-416213.)...**Applicant**

Versus

1. The State of Maharashtra,)
Through the Secretary of)
Home Department,)
Mantralaya, Mumbai.)
2. The Collector and District,)
Magistrate, Kolhapur District,)
Kolhapur.)
3. The Sub-Divisional Officer,)
Sub-Division Magistrarte,)
Panhala, Sub-Division, Panhala,)
District: Kolhapur.)
4. Mr. Deepak Balwant Patil,)
R/o. at Post Pishavi,)
Tal Shahuwadi,)
District: Kolhapur-416213.)...**Respondents**

Shri K.T. Pawar, Advocate for the Applicant.

Shri A.J. Chougule, Presenting Officer for the Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER (J)

DATE : 18.10.2019.

W. 21/10/19

JUDGMENT

1. The Applicant has challenged the appointment of Respondent No.4 to the post of Police Patil of Village Pishvi, Tal. Shahuwadi, District Kolhapur solely on the ground that though he secured 52 marks in Written Examination, he was given only 07 marks in Oral and thereby his total was stuck to 59 marks whereas Respondent No. 4 got 45 marks in Written Examination but he was given 15 marks in Oral and thereby his total was made to 60. Thus, the grievance of the Applicant is that in Oral, excess marks were given to Respondent No. 4 only to deny appointment to him. This is the only ground raised by the Applicant as well as his Advocate during the course of hearing.

2. Per contra learned P.O. submits that though Applicant had secured 52 marks in written examination in oral, the performance was found average and therefore 07 marks were given to him whereas in respect of Respondent No.4 having regard to his performance 15 marks were given to him and therefore he got selected on merit.

3. The perusal of the Chart prepared by the Committee consists of 4 Officers in the cadre of Social Welfare Officer, Tahsildar, Sub Divisional Police Officer and Chairman/Dy. Divisional Commissioner shows that each member of the Committee gave marks separately and average was considered. True, the Committee allotted 15 marks out of 20 to Respondent No.4 and marks allotted to others were in the range of 7 to 8 but that ipso facto is not enough to establish that the Committee favoured Respondent No.4. The allotment of marks depend upon the performance of candidates. The Applicant got 52 marks out of 80 marks in Written Examination but in oral, he got 7 marks out of 20 marks. Whereas Respondent No. 4 got 45 marks out of 80 marks in Written


Examination and in Oral, he got 15 marks out of 20 marks. Thus, the total marks of the Applicant come to 59. Whereas Respondent No. 4 secured 60 out of 100. As Respondent No.4 secured highest, he was appointed.

4. In so far as the allocation of marks in Oral is concerned, material to note that except bare allegation that excess marks were given by the Committee, there is absolutely no pleadings against the members of the Committee about bias or prejudice. The pleading in O.A. is totally silent to show that the Committee had any bias or grudge against the Applicant or they were prejudiced in one or other manner. In absence of any such pleadings supported with some material, the marks given by the committee could not be interfered with. The Committee was consists of 4 members and each one gave marks independently and average was considered. It is well settled principle of law that once candidate participated in the process appeared in the examination, then he cannot question the allotment of marks by Committee. For such challenge, there has to be very strong and cogent reasons and process cannot be held illegal for asking. The Applicant sought to avail information under RTI about criteria of allotment of marks in interview. However, he was informed by letter dated 30.01.2018 that no such criteria was fixed and it was left to the Committee. If Committee considered the Applicant more meritorious and allotted the marks accordingly, then it cannot be questioned in absence of specific pleading of bias and material in support of it. The pleading is totally silent. As such, the Applicant seems to have filed the application only on surmises and conjuncture and nothing else. The challenge to the appointment, is therefore, holds no water and O.A. deserves to be dismissed. Hence, the following order.

Wm

ORDER

The Original Application is dismissed with no order as to costs.



(A.P. Kurhekar)
Member(J)

Mumbai

Date : 18.10.2019

Dictation taken by :

N.M. Naik

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