

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 903 of 2023 (S.B.)**

Aman Anand Dhoke,
aged-24 years, Occ-Student, R/o 1393, Chinora,
Taluka Warora, Dist. Chandrapur.

Applicant.

Versus

1. State of Maharashtra,
through its Secretary Department of Revenue and forest,
Mantralaya, Mumbai-32.
2. Tahsildar, Warora, Dist. Chandrapur.
3. Nikhil Nilkantha Waghmare,
Lalit Nagar, Chinora,
Taluka Warora, Dist. Chandrapur.

Respondents.

**S/Shri R.V., N.R. Shiralkar, A.M. Motlag, Advs. for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2.
Shri G.G. Bade, Advocate for respondent no.3.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 14/10/2024.

J U D G M E N T

Heard Shri A. Motlag, learned counsel for the applicant,
Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2 and Shri
G.G. Bade, learned counsel for respondent no.3.

2. The case of the applicant in short is as under –

The applicant belongs to Schedule Caste (S.C.). The
applicant has passed Higher Secondary Examination. Respondent

no.2 issued proclamation for filling the post of Kotwal for various saza's in Warora Taluka as per the proclamation dated 22/05/2023.

3. The applicant applied for the post of Kotwal of Chinora Saza from open category on 30/5/2023. As per advertisement, written examination of 100 marks was conducted on 15/6/2023. The applicant secured 82 marks in the written examination. He was at sr.no.1 in the merit list. Respondent no.3 secured 78 marks and was at sr.no.2. On 15/6/2023, Respondent no.2 declared the select list of the candidates. The applicant was selected for the post of Kotwal of village Chinora. It seems that after the selection process was over respondent no.3 raised objection with respondent no.2 stating that applicant resides at Majara (Rai) which is 2 kms. away from Chinora. The applicant is not resident of Chinora, therefore, he is not eligible for the post of Kotwal. On 27/6/2023 without intimation to the applicant, the selection of applicant was cancelled by respondent no.2 and appointment was given to respondent no.3. It is submitted that no any reason is provided by respondent no.2 to the applicant for cancellation of his selection. Hence, the applicant approached to this Tribunal for the following reliefs –

“(7) (A) Quash and set aside the appointment order dated 27.6.2023 issued by the respondent no.2 by which appointment was given to the respondent no. 3 on the post of Kotwal, of village Chinora in the interest of

justice and;

(B) Direct the respondent no. 2 to appoint the applicant on the post of Kotwal, Chinora.”

4. The O.A. is strongly opposed by respondent nos.2 and 3. It is submitted that the applicant is not resident of village Chinora. As per the advertisement, there was a condition that the candidate should be resident of village of saza of Kotwal. The applicant is not residing at Chinora, he is residing at Majara and therefore selection of the applicant was cancelled. Hence, the O.A. is liable to be dismissed.

5. During the course of submission the learned counsel for applicant A. Motlag has pointed out the G.R. dtd, 5/9/2013. As per his submission, there is no condition / rule to show that the candidate should be resident of village for the post of Kotwal. He has pointed out the Judgment of this Tribunal in O.A.632/2019. The learned counsel for applicant has submitted father of applicant is having plot at village Chinora. The Certificate was given by the Talathi stating that he is resident of Chinora. Though the applicant is not having residential house, but village Majara is at the distance of 2 kms. Therefore, the applicant is having local knowledge of the village. As per his submission, there is no rule to show that applicant should be resident of the said village. At last submitted that the O.A. be allowed and appointment order issued in favour of respondent no.3 be cancelled.

The learned counsel for applicant has submitted that the applicant has secured more marks. He was at sr.no.1 in the merit list. Respondent no.3 secured less marks. Therefore, applicant is entitled for the post of Kotwal of village Chinora.

6. The learned P.O. has pointed out the advertisement and submitted that there was a condition in the advertisement itself which shows that candidate should be resident of the village. The applicant is not resident of village Chinora and therefore his selection was cancelled.

7. The learned counsel for respondent no.3 Shri G.G. Bade has submitted that the applicant should be resident of village. He has pointed out the Recruitment Rules of 1959. As per his submission, there was a condition in the advertisement itself. The applicant was well aware about the condition. The applicant is not having any residence at village Chinora. Therefore, his selection is cancelled. It is legal and correct. Hence, the O.A. is liable to be dismissed.

8. There is no dispute that the applicant is resident of village Majara. The said village is at the distance of 2kms. from village Chinora. There is no any rule to show that the candidate should be resident of the said village. The rules pointed out by the learned counsel for respondent no.3 nowhere show that the candidate should

be resident of the particular village to be appointed. The Rule 10 of the Recruitment Rules of 1959 is reproduced below –

“ (10) Residence – A person appointed as a Kotwal of a village must have knowledge of the local conditions of the village and must be prepared to stay in the village of his appointment.”

9. As per above cited rules, a person on appointment as a Kotwal of village must have knowledge of the local conditions of the village and must be prepared to stay in the village of his appointment.

10. The G.R. dated 5/9/2013 issued by the Government is also clear. As per this G.R., there is no condition that candidate should have resident of the village. The material portion of the G.R. is reproduced below –

“सुधारित नियम व मार्गदर्शक तत्वे :-

१) कोतवाल पदासाठी उमेदवाराची किमान शैक्षणिक अहंता ४ थी पास इतकी असावी.

२) कोतवाल भरतीसाठी उमेदवार १८ ते ४० वयोगटातील असावेत.

३) कोतवाल भरतीसाठी जिल्हा अधिकारी यांच्या अथवा त्यांनी नामानर्देशित केलेल्या अधिका-याच्या अध्यक्षतेखाली निवड समिती असावी.

४) कोतवाल भरतीसाठी लेखी व तोंडी परीक्षा घेण्यात यावी.

अ) लेखी परीक्षा ही ७५ गुणाची असावी.

ब) तोंडी परीक्षा ही २५ गुणाची असावी.

क) १०० गुणाचे परीक्षाचे आधारवर गुणानुक्रम असावा.

11. As per the G.R. dated 5/9/2013 there is no rule / condition that the candidate should be resident of the village. Therefore, it is clear that only Rules of 1959 show that candidate must have

knowledge of local condition of the village and he should be prepared to stay in the village.

12. The father of applicant is having residential plot at village Chinora. The village Majara is at the distance of 2 kms. from village Chinora. Therefore, the applicant must have knowledge of the local condition of the village and it appears that he is intending to stay in the village, because, his father has purchased plot at village Chinora. The rules of 1959 and G.R. dated 5/9/2013 nowhere say that the candidate must be resident of that village.

13. This Tribunal in O.A. No.632/2019 also recorded the same findings that there is no condition in the rule to show that candidate should be resident of the village. The G.R. dated 5/9/2013 was pointed out in the said Judgment.

14. There is no dispute that the applicant has secured more marks i.e. 82 marks, whereas, respondent no.3 secured 78 marks. The applicant was at sr.no.1 in the merit list. The applicant was selected for the post of Kotwal of village Chinora, but respondent no.3 raised objection stating that the applicant is not resident of village Chinora. Respondent no.2 cancelled the selection of applicant and appointed respondent no.3. It appears that in view of the rules and G.R. 5/9/2013 appointment of respondent no.3 is not legal and correct. There is no rule to show that the applicant should be resident

of village Chinora. Only Rules of 1959 show that he must have knowledge of local condition of the village and he must be prepared to stay in the village after appointment. The father of applicant is having plot at Chinora. The applicant is resident of village Majara. It is at the distance of 2 kms. from village Chinora. The applicant has secured more marks i.e. 82 marks, respondent no.3 secured 78 marks. The applicant was meritorious candidate, therefore, he was rightly selected by respondent authorities. Respondent no.2 without considering the G.R. and Rules of 1959 wrongly cancelled the selection of applicant. Hence, the following order is passed –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order dated 27/6/2023 issued by respondent no.2 by which the selection of applicant is cancelled and respondent no.3 is posted as Kotwal of village Chinora is hereby quashed and set aside.
- (iii) Respondent no.2 is directed to appoint the applicant on the post of Kotwal of village of Chinora within a period of one month from the date of receipt of this order.
- (iv) No order as to costs.

Dated :- 14/10/2024.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 14/10/2024.