

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 378 OF 2013

DISTRICT : - AURANGABAD.

Mahesh S/o Pralhad Rathod,
Age 22 years, Occu: Nil,
R/o Thapti (Tanda) Post-Ekture,
Tq. Paithan & Dist. Aurangabad .. APPLICANT.

V E R S U S

1. The State of Maharashtra
(Copy of R-1 served on C.P.O.,
MAT Bench at Aurangabad).
2. The Superintendent of Police,
Aurangabad (Rural), Dist. Aurangabad.
3. Sanjay S/o Eknath Lagad,
Age Major, Occu: Nil,
R/o: Kanargaon Post: Sultanpur,
Tq. Khultabad, Dist. Aurangabad .. RESPONDENTS

APPEARANCE : Shri K.D. Jadhav – learned Advocate
for the Applicant.

: Mrs. Priya R. Bharaswadkar –
learned Presenting Officer for the
respondent Nos. 1 & 2.

: Shri V.B. Wagh – learned Advocate
for Respondent No. 3.

CORAM : **HON'BLE SHRI RAJIV AGARWAR,**
VICE CHAIRMAN (A).
AND
: **HON'BLE SHRI J.D. KULKARNI,**
MEMBER (J)

DATE : **21ST OCTOBER, 2016.**

ORDER

[Per : Hon'ble Shri Rajiv Agarwal, V.C. (A)]

1. Heard Shri K.D. Jadhav – learned Advocate for the Applicant, Mrs. Priya R. Bharaswadkar – learned Presenting Officer for respondent Nos. 1 & 2 and Shri V.B. Wagh – learned Advocate for respondent No. 3.
2. The Applicant is seeking appointment to the post of Police Constable pursuant to the advertisement dated 9.4.2013 issued by the Respondent No. 2. The Applicant is challenging the appointment of the Respondent No. 3 on the post of Police Constable.
3. Learned Advocate for the Applicant argued that the Respondent No. 2 has issued an advertisement on

9.4.2013 to fill a total of 47 posts of Police Constables. The Applicant and the Respondent No. 3 had applied for the post from VJ-A category (the Applicant) and Open Category (the Respondent No. 3) respectively. Both of them scored 156 marks out of 200 marks. Learned Advocate for the Applicant contended that the Applicant is more qualified than the Respondent No. 3 and is therefore eligible to be preferred over the Respondent No. 3 as per paragraph 6 of Government Resolution dated 27.6.2008. However, the Respondent No. 2 has selected the Respondent No. 3, which is illegal.

4. Learned Presenting Officer argued on behalf of the Respondent Nos. 1 & 2 that the Applicant had applied from Open-PAP Category, like the Respondent No. 3. In their application forms, both have given educational qualification as H.S.C. However, at the time of verification of documents, the Respondent No. 3 had produced his B.A. certificate, while the Applicant did not do so. Only after completion of the selection process, the Applicant

raised the objection that he had higher educational qualification.

5. Learned Advocate Shri V.B. Wagh argued on behalf of the Respondent No. 3 that the Respondent No. 3 was selected from Open PAP Category, as he had scored 156 marks out of 200 marks in the selection process. Though the Applicant had also scored 156 marks, he could not be selected as he was less qualified as per information furnished by him in the selection process. Learned Advocate Shri V.B. Wagh argued that the Respondent No. 3 was rightly selected as per paragraph 6 of the Government Resolution dated 27.6.2008.

6. It is seen that the Applicant in his online application form has disclosed his qualification as H.S.C. The Respondent No. 3 has also claimed his qualification as H.S.C. in his online application form. Both have applied from Open-PAP Category and obtained equal marks in the selection process. Paragraph No. 6 of the Government Resolution dated 27.6.2008 provides that in such a case, a person having higher qualification is to be preferred.

The Applicant claims that he is more qualified than the Respondent No. 3. The Applicant is Master in Arts while the Respondent No. 3 is only B.Sc. degree holder. The claim of the Respondent No. 2 is that at the time of scrutiny of documents, the Respondent No. 3 had produced his B.A. Certificate, while the Applicant did not.

7. The relevant paragraph 16 (4) of advertisement dated 9.4.2013 reads as under: -

“१६) विशेष सुचना :-

१.
 २.
 ३.
 ४. शारिरिक पात्रतेत पात्र ठरलेल्या उमेदवारांच्या प्रमाणपत्राची छाननी करण्यात येईल. प्रमाणपत्र छाननीचे वेळी उमेदवाराने लागू असलेल्या प्रमाणपत्राची मुळ (**Original**) व सुस्पष्ट दिसतील अशा सक्षम प्राधिका-याने साक्षांकित केलेल्या छायांकित प्रती कार्यालयास सादर करणे आवश्यक आहे. उमेदवाराने प्रमाणपत्र मिळणे करीता सादर केलेल्या अर्जाच्या पावत्या ग्राह्य धरल्या जाणार नाहीत, मुळ प्रमाणपत्रे उपलब्ध नसल्यास उमेदवारास अपात्र ठरविण्यात येईल.

जात वैधता प्रमाणपत्र वगळून इतर सर्व आवश्यक ती प्रमाणपत्रे ही आवेदन अर्ज भरण्याच्या अंतिम दिनांका पर्यंतची (दि. ३०/०४/२०१३) असणे आवश्यक आहे.”

8. It shows that the certificates were required to produce at the time of scrutiny. The Respondent No. 2 in

the affidavit in reply dated 12.11.2013 has stated in paragraph No. 5 as below: -

***“5. I say and submit that, the applicant and respondent no. 3 submitted their forms online and both of them mentioned the same education i.e. H.S.C. At the time of the ground verification the applicant produced certificate and mark sheet of H.S.C. and the respondent no. 3 produced degree certificate and mark sheet of B.Sc.*”**

It appears that the Applicant did not produce the certificate of his Master in Arts degree at the time of scrutiny.

9. The Respondent No. 2 has placed on record scrutiny form, which were filled at the time of physical measurement of the candidates. These are annexed to the aforesaid affidavit in reply of the Respondent No. 2. These forms are signed by the Applicant and the Respondent No. 3. One fact which is relevant is that date of birth. For Respondent No. 3 it is 11.7.1988, while it is 17.6.1991 in

case of the Applicant. On that basis, the Applicant can claim preference. However, the fact remains that the Applicant did not claim that he was Master in Arts at the time of scrutiny of certificates and he cannot be allowed to make that claim later, after completion of the selection process. In terms of G.R. dated 27.6.2008, the Respondent No. 3 was rightly preferred over the Applicant.

10. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

O.A.NO.378-2013(hdd)-2016(DB)