

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.306 OF 2018

(Subject :- Police Patil Selection)

DISTRICT : OSMANABAD

Maruti S/o Haridas Patil,)
Age: 25 years, Occu: Unemployed,)
r/o: Yamgarwadi, Tq.: Tuljapur,)
Dist.: Osmanabad)...**Applicant**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Home Department, Mantralaya,)
Mumbai-400 032.)
(Copy to be served on Chief Presenting)
Officer, Mah. Adm. Tribunal,)
Bench At Aurangabad).)
2. **The Sub-Divisional Magistrate,**)
Osmanabad and President,)
Selection Committee for)
Recruitment of Police Patils.)
3. **Hirachand Sadashiv Yamgar,**)
Age: 26 years, Occu: Agril.,)
r/o: Yamgarwadi, Post: Nanduri,)
Tq.: Tuljapur, Dist.: Osmanabad)...**Respondents**

APPEARANCE : Shri P.G. Gunale, learned Advocate for the Applicant.
Shri S.K. Shirse, learned Presenting Officer for the Respondent Nos.1 & 2.
Shri S.A. Wakure, learned Advocate for the Respondent No.3.

CORAM : **JUSTICE A.H. JOSHI, CHAIRMAN**

RESERVED ON : **03.05.2019.**

PRONOUNCED ON : **06.05.2019.**

O R D E R

1. Heard Shri P.G. Gunale, learned Advocate for the Applicant, Shri S.K. Shirse, learned Presenting Officer for the Respondent Nos.1 & 2 and Shri S.A. Wakure, learned Advocate for the Respondent No.3.

2. The Sub-Divisional Officer, Osmanabad and the Chairman of selection Committee for Police Patil issued advertisement inviting applications for appointment to the post of Police Patil for various places in Osmanabad Sub Division. The Applicant has applied in relation to the vacancy for village Yamgarwadi in VJ (C) category.

3. Admitted facts are:-

(a) The advertisement contains a prescribed rules *inter-alia* as regards age limit which reads as follows:-

क्र.	पदनाम	किमान आवश्यक अर्हता
१.	पोलीस पाटील	१. २. अ) वयोमर्यादिकरिता अर्जदाराचे दिनांक १९.०४.२०१८ रोजीचे वय विचारात घेतले जाईल. ब) अर्जदाराचे वय दिनांक १९.०४.२०१८ रोजी २५ वर्षांपेक्षा कमी नसावे व ४५ वर्षांपेक्षा जास्त नसावे. क) पोलीस पाटील पदांकरिता वयोमर्यादा शिथिलक्षम नाही

(quoted from page no.14 of the O.A.)

(b) The Applicant is below 25 years of age on 19.04.2018 i.e. date prescribed in the advertisement.

(c) Recruitment rule as regards age, reads as follows:-

“No person shall be eligible for being appointed as a police patil who-

“Is under Twenty Five years or over Fifty Five years of age at the time of appointment.” Moreover the State Government on date 07.09.1999 by its order No.BVP-299/CR-56/Pol-8 clearly mentioned that, the age limit of the candidate for the post of Police Patil is 25 to 45 years.”

(quoted from page no.45 of the O.A.)

(d) Applicant’s candidature has been rejected on the ground that his age is below 25 years.

4. Learned Advocate for the Applicant has placed reliance on the reported judgment of Hon’ble Supreme Court in ***Civil Appeal No.2689 of 2017 in case of Ranajit Kumar Meher Vs. State of Orissa and Ors., (2017) 4 SCC 568, decided on 13.02.2017.***

5. Record reveals that this Tribunal had heard the case on 19.9.2018 wherein this Tribunal had recorded in paragraph no.11 to 13 as follows:-

“11. Learned Advocate for the Applicant prays for ex-parte interim relief on very limited grounds, namely:-

(a) Recruitment Rules provides that a candidate to be appointed on the post of Police Patil shall not be below the age of 25 years.

(b) Advertisement provides to the contrary of the Recruitment Rules.

(c) In this case contrary to the Recruitment Rules and in adherence to the advertisement, applicant’s candidature is rejected.

12. Rejection of applicant’s candidature is denial of fair opportunity to him in the recruitment process. Hence, applicant has made out a good case for grant of interim relief in his favour.

13. By way of interim relief, the respondent no.2, the appointing authority is restrained from appointing respondent no.3 as Police Patil.”

(quoted from order dated 19.9.2018.)

6. In the aforesaid background, the Respondents have come up with affidavit with a stand that :-

“6.

I further say and submit that, the list of the eligible and ineligible candidates displayed by the Respondent No.2 on 05/05/2018 is legal one, and there is no question to allow to applicant to go through further stage of recruitment for the post of Police Patil. It is submitted that, the Applicant's birth date is 18/07/1993 (In words: Eighteenth July Nineteen Ninety-three) according to SSC Certificate (No.056678) Dated 25/06/2009 submitted by the applicant and as per Advertisement of this office, the Applicant was 24 years, 09 months and 01 day at the age on date 19/04/2018. Therefore applicant was not eligible for the said written examination of Police Patil.”

(quoted from page no.46 of the O.A.)

7. The attitude of the Sub-Divisional Officer to neglect the recruitment rules and even the caution given by this Tribunal through the order dated 19.9.2018 is astonishing, apart that it is shocking.

8. The Competent Authority is entitled to choose various methods for eliminating the candidates, when the number of candidates is disproportionately high.

9. The Competent Authority would also be with its power to fix the benchmark for selection. However, tinkering with recruitment rules are not within the executive powers of the appointing authority.

10. In the result, the impugned order turns out contrary to the recruitment rules. Hence, the Original Application succeeds.

11. The impugned decision declining the Applicant's candidature is quashed and set aside.

12. The Original Application is allowed in terms of prayer clause 'B' with further directions that if the selection process is already completed, Applicant's name be included in the list of candidates to be considered for examination/selection process as adopted, and if he withstands the benchmark and merit, he may be considered for appointment.

13. Parties are directed to bear own costs.

(A.H. JOSHI)
CHAIRMAN

Place: Aurangabad

Date : 06.05.2019

SAS:MAY, 2019. O.A.NO.306/2018.SB. Chairman