

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO. 718 OF 2015**

**DISTRICT :PUNE**

Shri Amar Ramdas Ghume )  
R/O S.No.53/58, /Sainath Nagar, )  
Vadgaon Sheri, Pune 14. )...**Applicant**

**VERSUS**

1. The State of Maharashtra )  
Through the Addl. Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 32. )
2. The Director General of Police )  
Shahid Bhagat Singh Road, )  
M.S. Mumbai. )
3. The Additional Director General )  
of Police, Finger Prints and )  
Photographic Bureau, )  
Pashan Road, Near Modern )  
College, M.S. CID, Pune. )....**Respondents**

Shri R.M. Kolge, learned Advocate for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal, Vice-Chairman  
Shri R.B. Malik (Member) (J)**

**DATE : 23 .08. 2016**

**PER : Shri Rajiv Agarwal, Vice-Chairman**

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**ORDER**

1. Heard Shri R.M. Kolge, learned Advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

2. This Original Application has been filed challenging the order dated 13.8.2014 issued by the Respondent No.3 rejecting the candidature of the Applicant for the post of Searcher on his establishment.

3. Learned Counsel for the Applicant argued that the Applicant was initially appointed as Constable in the State Reserve Police Force, Group 1 Pune on 29.7.2003. He was later appointed as Junior Technical Assistant on 28.6.2007 as he passed a Departmental Examination for that post. He was promoted to the post of Senior Technical Assistant by order dated 2.11.2013 by the Respondent No.3. The Applicant applied on 18.5.2012 to the Respondent No.3 to permit him to appear for the examination for the post of Searcher, which is equivalent to the post of Police Sub-Inspector (P.S.I.). The Applicant was allowed to appear for the examination. The Applicant was selected in the Proficiency Test from NT-B category. However, the Applicant has not yet been appointed to the post of Searcher. The Respondent No.3 submitted a proposal on 26.6.2012 to the Respondent No.1 to allow the Applicant to be appointed as Searcher. The Applicant was informed by impugned order



dated 13.8.2014, that he was not eligible to be appear for the proficiency test in terms of Rule 62(1) of the Bombay Police Manual, Part I, and therefore, he cannot be appointed as Searcher. Learned Counsel for the Applicant argued that in the past, persons working as Jr. Technical Assistant viz. Shri K.L. Banswal was allowed to appear for proficiency examination and was appointed as Searcher. Also, Shri Gade, Assistant Photographer, Shri Ajnire, Sr. Technical Assistant were also appointed as Searcher, as was Shri Banswal. The impugned order is highly discriminatory. Learned Counsel for the Applicant argued that Rule 61 of Bombay Police Manual has been interpreted arbitrarily by the Respondents and some categories of employees have been held to be eligible for selection for the post of Searchers, while persons like the Applicant are <sup>held</sup> ineligible from being so considered. fm

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant is working as a Junior Technical Assistant in the office of the Respondent No.3. This is a Technical and non-executive post. It does not fall in the category of clerical cadre and as such, the Applicant is not eligible to be considered for the post of Searcher in terms of Rule 62(1) of the Bombay Police Manual.

5. Impugned order dated 13.8.2014 (Exhibit 'M' page 66 of the Paper Book) reads:-

*fm*



“ २/- पोलीस नियमावली भाग-९ नियम क्रमांक ६२ (९) अन्वये तपासणीस/पोलीस उप निरीक्षक (अंमु) परिक्षेस बसण्यासाठी आपण धारण करत असलेले कनिष्ठ तांत्रिक सहाय्यक पद हे पात्र नसल्याने तत्कालीन अपर पोलीस महासंचालक, राज्य गुन्हे अन्वेषण विभाग, पुणे यांनी शासनाने निर्णयाचे अधीन राहून दिलेली परवानगी बाबत शासनाने व पोलीस महासंचालक कार्यालयाने सक्षम अधिकारी अपर पोलीस महासंचालक, गुन्हे अन्वेषण विभाग, पुणे यांना निर्णय घेण्यास कळविलेले आहे. सदर बाबत शासनाने याबाबत कोणताही निर्णय दिलेला नाही.

३/- आपण धारण करत असलेले कनिष्ठ तांत्रिक सहाय्यक हे पद पोलीस नियमावली भाग ९ नियम क्रमांक ६२ (९) मध्ये नमूद अर्हतेनुसार तपासणीस परिक्षेस बसण्यास पात्र नसल्याने तत्कालीन अपर पोलीस महासंचालक, राज्य गुन्हे अन्वेषण विभाग, पुणे यांनी दिलेली परवानगी रद्द करण्यात येत आहे व सदर परिक्षेस बसण्यास अपात्र ठरविण्यात येत आहे. हे आपल्या माहितीसाठी कळविण्यात येत आहे.”

As the impugned order mentioned that the State Government, the Respondent No.1, had not given any decision in this matter, the Respondent No.1 was asked to file an affidavit in reply. The affidavit in reply has been filed on 4.8.2016. This affidavit in reply in para 2 states as follows:-

“With reference to above, I say and submit that the Applicant is working in the office of Additional Director of Police, C.T.D. Pune as a Junior Technical Assistant. The post held by the Applicant is technical and non-executive. As such, the post held by the Applicant does not fall within the category of clerical cadre.”

This affidavit in reply is highly unsatisfactory. The only reason to hold that the Applicant was not eligible for being considered for the post of Searcher is stated to be that he does not belong to clerical cadre. It is also stated that a person holding a technical and non-executive post is not eligible for appointment to the post of ‘Searcher’.

6. Let us examine the relevant Rule quoted in the impugned order. It reads:-



“62. Recruitment of the Staff of the Finger Print, Hand Writing and Photographic Bureau.- (1) The staff of the Bureau will be recruited by the Deputy Inspector General of Police, Criminal Investigation Department, State of Bombay, from amongst clerks or executive men working as Chief Operators and also from amongst persons not in Government service, in accordance with provisions contained in Rule 61.

(2) Junior Searcher, Finger Print Bureau:- Appointment of Junior Searcher, Finger Print Bureau is made by direct recruitment subject to passing the Junior Searcher's Examination for confirmation.

Note.- Though minimum qualification is Higher Secondary Examination or Intermediate Examination in Arts or Science preference will be given to candidates having higher qualifications.”

7. The Respondents are relying on words ‘Clerks and ‘exeuctive men’ in Rule 62(1) to hold the Applicant as ineligible. Presumably, if he had applied for the post as a Constable, he would have been held eligible, as that post is ‘executive.’ However, once he has been posted as Junior Technical Assistant, a non- clerical, non-executive post, he loses that eligibility. This appears to be absurd interpretation of the aforesaid rule. Also, for the post of Junior Searcher, an outsider can also apply for the post to be filled by direct recruitment. Only qualification is Higher Secondary Examination or Intermediate Examination. The Applicant is holding B.Com qualification. Considering the fact, that the Applicant is eligible to be considered for the post of Junior Searcher as a direct candidate, and before being posted as Junior Technical Assistant, he was holding



the 'executive' post of Constable and that in the past, Junior Technical Assistant and persons holding non-clerical technical posts have been allowed to appear for examination, there is no reason, why the Applicant be held ineligible for the post of Junior Searcher.

8. The impugned order dated 13.8.2014 is quashed and set aside. The Respondents are directed to give appointment to the Applicant as 'Searcher' on the basis of his performance in the Examination held for that post in 2012 from NT-B category. This should be done within one month from the date of this order. This O.A.a is allowed accordingly with no order as to costs.

Sd/-

**(R.B. MALIK)**  
**(MEMBER) (J)**

Sd/-

**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

**Date : 23.08.2016**

**Place : Mumbai**

**Dictation taken by : SBA**

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