

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.1359 OF 2023**

DISTRICT : AHMEDNAGAR

Pooja Narayan Chattar,)
Age 28 years, Occ. Nil, R/at At Post Nighoj,)
Tal. Parner, District Ahmednagar 414306)..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary,)
Home Department, Mantralaya, Mumbai)
2. The Director General of Police,)
S.B. Marg, Colaba, Mumbai)
3. Maharashtra Public Service Commission,)
Through the Secretary,)
Plot No.34, Opposite Sarovar Vihar, Sector 11,)
CBD Belapur, Navi Mumbai)
4. Pooja Vitthal Pawar,)
Through the MPSC,)
Plot No.34, Opposite Sarovar Vihar, Sector 11,)
CBD Belapur, Navi Mumbai)..Respondents

Shri S.S. Dere – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Shri A.M. Kulkarni, Member (A)

DATE : 2nd January, 2025

J U D G M E N T

1. The respondent no.3 on 9.1.2019 published an advertisement No.1/2019 of Maharashtra Subordinate Services Non-Gazetted, Group-B Preliminary Examination, 2019. The respondents advertised total advertised 555 posts with following breakups ASO-24, STI-35 posts & PSI-416 posts. The respondent no.3 published the revised merit list on 1.6.2022. The applicant's name appeared at Sr. No.685 and respondent no.4's name appeared at Sr. No.684. The respondent no.4 preferred representation before the Respondent No.3 requesting that she is already selected in State Services Examination, 2021 and she is not inclined to join the post of PSI. The applicant was at Sr. No.685 in the revised merit list and she stood at Sr. No.1 in the waiting list. The waiting list was effective for one year i.e. up to 31.5.2023.

2. Ld. Advocate for the applicant states that the respondent no.2 took decision on 26.5.2023 pursuant to the representation of respondent no.4 and informed Superintendent of Police, Pune (Rural) to take steps to enable MPSC to recommend the next candidate in the waiting list. The respondent no.2 on 31.5.2023 informed the respondent no.1 asking to cancel the appointment of respondent no.4 and immediately inform the name of the wait listed candidate to the MPSC. Ld. Advocate for the applicant has stated that these steps were taken within one year of publishing of revised merit list. On 2.6.2023 the respondent no.1

informed this development of cancellation and asked the MPSC for recommending other wait listed candidate.

3. Ld. Advocate for the applicant has further argued that on 22.6.2023 the respondent no.3 sent letter to respondent no.1 that merit list was published on 1.6.2022 and therefore since one year has lapsed on 31.5.2023, no candidate can be recommended.

4. Ld. Advocate for the applicant relied on the ratio of the judgment and order dated 16.8.2024 passed by the Hon'ble Bombay High Court in W.P. No.2881 of 2021 **MPSC Vs. Amol P. Patil & Ors.**

5. The OA is filed on 18.10.2023 and Respondent No.3-MPSC has not filed the affidavit in reply though several opportunities were granted. Hence, the matter is proceeded without reply of MPSC.

6. Ld. PO has argued that the judgment of the Hon'ble High Court in *Amol P. Patil* (supra) is not applicable to the present case. She further submitted that the waiting list is lapsed after one year as per the rules and procedure of 2014 of the MPSC. Therefore, the name of the applicant neither can be considered nor recommended.

7. The object of maintaining the wait list is to be taken in account. Often some of the recommended candidates do not join the services for one or the other reason. So those posts fall vacant. Number of such posts can be very less and for that purpose again taking the examination is found not at all practical. The candidates who have cleared the examination and could not be recommended only for want of adequate number of vacant posts, those candidates can be recommended as per their merit by MPSC and the posts can be filled up. This method of maintaining the wait list and recommending candidates from wait list is

excellent method to reduce the hardship of getting sufficient manpower in the administration. It is true that such wait list cannot be kept alive perennially which will cause injustice to the fresher who want to join employment. Therefore, by way of via media the list is kept alive for one year only. One year is a sufficient time for all the required formalities and so also for communicating the concerned authority, if any recommended candidate does not want to join the service. However, it is noticed by us that the period of one year is not promptly utilized. There is lethargy in process and therefore the purpose of wait list gets frustrated as wait list is lapsed though there is demand made by the State the persons cannot be recommended. This is typical administrative delay which defeats a practical object of the wait list. The respondent State and MPSC should keep it in mind that the process is always required to be speed up especially when there are some time bound procedure. Wait list is an enabling procedure. It is not to be used for obstructing the entries and it is not to be paralyzed by pointing out that there is one day delay. We have considered the entire chronology which is placed before us by the Ld. Advocate for the applicant and also the Ld. PO. The State is made request for recommending the name of the wait listed candidate before one year which in fact should have done early. Be that as it may. However, it was within one year and therefore it was the duty of the MPSC to recommend the name of the applicant who was at Sr. No.1 in the wait list.

8. In support we rely on the following ratio of the Hon'ble High Court in *Amol P. Patil* (supra). Paras 8 and 10 of which reads as under:

“8. In our view, it is the primary concern of the Appointing Authority to take a call as to whether it intends to fill in the vacant posts by operating the Wait list. Once this intention is made clear that for justifiable reasons the Appointing Authority has taken a call to fill in the vacant posts, the role of the MPSC as the

Recommendatory Authority would be secondary in nature. When it has been demonstrated that the Appointing Authority initiated the process of filling in the vacancies much prior to expiry of the life of the waiting list, said aspect ought to be given due importance. Merely because a short period beyond the life of the Wait list had passed due to exchange of departmental communications, the Recommendatory Authority would not be justified in declining the request for supplying the names of wait list candidates. As held in Sat Pal (supra), what is of relevance is the decision of the Appointing Authority to fill in the vacancy which in the present case is much prior to the life of the Wait list.

10. Another relevant aspect that is required to be noted is that upholding the stand of the MPSC of declining to send the names of the wait listed candidates in the present facts would only result in a fresh process of recruitment being required to be undertaken; thus resulting in expenditure of public funds. This would be against larger public interest. The Appointing Authority being the principal authority to consider whether vacancies are required to be filled in or not and it having decided so by taking a conscious decision prior to expiry of the Wait list, we do not find it expedient to interfere in exercise of writ jurisdiction especially in the absence of any grievance being raised either by the Appointing Authority or by any candidate claiming to be deprived of any opportunity whatsoever.”

9. In view of the above, the OA deserves to be allowed. Hence, we pass the following order.

10. The Original Application is allowed. The respondent no.3-MPSC is directed to recommend the name of the applicant for the post of Police Sub-Inspector within one week and Respondent No.2, Director General of

Police, Maharashtra is directed to complete the required procedural formalities of medical and character verification within two weeks thereafter. The applicant be sent for training in the next batch. No order as to costs.

Sd/-

(A.M. Kulkarni)
Member (A)
2.1.2025

Sd/-

(Mridula Bhatkar, J.)
Chairperson
2.1.2025

Dictation taken by: S.G. Jawalkar.

D:\JAWALKAR\Judgements\2025\1 January 2025\OA.1359.23.J.1.2025-PNChattar-Selection.doc