

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.180 OF 2023

DISTRICT : SANGLI

Shri Mahadeo Vasant Sapkal,)
Age 49 years, R/at Mhaishal (S), Taluka Miraj,)
District Sangli)..Applicant

Versus

1. Divisional Commissioner,)
Pune Division, Vidhanbhavan, Pune-1)
2. Sub Divisional Officer,)
Taluka Miraj, District Sangli)
3. Police Inspector, Miraj Gramin Police Station,)
Miraj)
4. State of Maharashtra,)
Through Home Department, Mantralaya,Mumbai)..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicant

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

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 2nd April, 2024

PRONOUNCED ON: 30th April, 2024

J U D G M E N T

1. In this OA the applicant who was working as Police Patil challenges the order dated 11.1.2023 passed by the Divisional Commissioner, Pune rejecting the appeal of the applicant by confirming the order dated 11.7.2022 passed by the Sub-Divisional Officer (SDO), Miraj of termination of the applicant.

2. The applicant was working as Police Patil of Village Mhaishal, Taluka Miraj, District Sangli since the year 2006. During his tenure as Police Patil on 20.6.2022 one incident occurred in Village Mhaishal in which 9 members of family from S/Shri Manik Yallappa Vanmore and Popat Yallappa Vanmore died in the village Mhaishal. Thereafter FIR No.300/2022 came to be registered with the Miraj Rural Police Station. The applicant was also made accused. The applicant filed Anticipatory Bail Application No.625 of 2022 before the Sessions Court, Sangli and the Ld. Additional Sessions Judge, Sangli by his order dated 11.7.2022 allowed the said application and granted Anticipatory Bail to the applicant.

3. Ld. Advocate for the applicant pointed out that SDO, Miraj had issued the order of termination on 11.7.2022 without issuing any show cause notice and without hearing the applicant. He further pointed out that against the said order of termination the applicant preferred an appeal before the Divisional Commissioner, Pune which was rejected by order dated 11.1.2023.

4. Ld. Advocate for the applicant pointed out that respondent no.3 after detail investigation found that there is no evidence against the applicant and therefore dropped the proceedings against the applicant. Further the respondent no.3 has filed charge sheet before the Sessions

Court wherein the name of the applicant has been dropped. He also refers to the fact that SDO, Miraj terminated the applicant hurriedly on the basis of applicant being made accused without issuing any show cause notice or hearing the applicant. He also pointed out that the applicant was not aware of the transaction of the deceased family. He states that authorities failed to consider that the applicant was working as Police Patil since 2006.

5. Ld. PO refuted the contentions raised by the Ld. Advocate for the applicant and she relied on the affidavit in reply dated 19.7.2023 filed by Mr. Uttam Vittal Dighe, SDO, Miraj. She pointed out that the applicant was appointed as a Police Patil of village Mhaishal and his services were subject to rules and regulations of Maharashtra Village Police Act, 1967. It was pointed out that during his tenure as Police Patil since 2015 the activities like Blackmagic, Superstition, grabbing funds from innocent villagers by fake imposters etc., was rampant. However, the applicant did not intimate the respondents or his superiors about such activities. The post of Police Patil was created primarily to keep watch on illegal activities going on in the village and also report any possibility of suspicious act. Some villagers being illiterate fall prey to fraudulent activities by imposters. Thus, the Police Patils are the linkage of information between village and Police Department.

6. The affidavit further states that the applicant was totally careless and failed to perform his duties properly. 9 persons committed suicide due to activities like superstition. Accordingly, FIR came to be lodged in the Miraj Police Station vide CR No.300/2022. As the applicant was also found responsible for the offence a charge sheet came to be filed against the applicant along with other offenders. Ld. PO further pointed out that considering grave and serious dereliction of duties, the respondents had

the power to terminate his services to ensure social peace and safety at large.

7. I have considered the submission of both the sides. It is a fact that a crime was committed in the village where the applicant was working as Police Patil. A total of 9 villagers committed suicide in the village due to activities like Blackmagic, Superstition, grabbing funds from innocent villagers by fake imposters etc. It is a fact that Police Patil is appointed by the State Government to ensure that there is law and order and peace in the village. The Police Patil is appointed from amongst the villagers and he is supposed to have local knowledge of what is going on in the village. As per Section 6 of Maharashtra Village Police Act, 1967 the duties of the Police Patil are as follows:

“6. Subject to the orders of the District Magistrate, the Police-Patil shall,-

(i) act under the orders of any other Executive Magistrate within whose local jurisdiction his village is situated;

(ii) furnish such return and information as may be called for by such Executive Magistrate;

(iii) constantly keep such Executive Magistrate informed as to the state of crime and all matters connected with the village police and the health and general condition of the community in his village;

(iv) afford every assistance in his power to all Police Officers when called upon by them in the performance of their duty;

(v) promptly obey and execute all orders and warrants issued to him by a Magistrate or Police Officer;

(vi) collect and communicate to the Station Officer intelligence affecting the public peace;

(vii) prevent within the limits of his village the commission of offence and public nuisances and detect and bring offenders therein to justice;

(viii) perform such other duties as are specified under other provisions of this Act, and as the State Government may, from time to time, by general or special order specify in this behalf.”

8. In this case it is seen that there was a very unfortunate incident in village and 9 persons of a family committee suicide on the allegation that they were harassed, threatened and ill-treated and Crime No.300/2022 was registered with the Miraj Police Station for the offences punishable under Section 306, 341, 504, 506 r/w 34 of IPC, Section 39, 45 of Maharashtra Money Lending Regulation Act, Section 3(2)(va), 3(1)(r), 3(1)(s), 3(2) and 3(2)(v) of The Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act.

9. The post of Police Patil is extremely important one and it was his duty to inform the higher authorities about the activities that were going on in the village. There is apparent neglect on the part of the Police Patil. However, in this case it is seen that no DE was conducted against the applicant. It is seen that the SDO, Miraj has terminated the services of the applicant by order dated 11.7.2022 without following the proper procedure of DE as laid down in the Rule 8 and 9 of the MCS (Discipline &

Appeal) Rules, 1979. The said order has been confirmed by Divisional Commissioner, Pune by order dated 11.1.2023.

10. The appointment, duties as well as procedure for imposing penalties to Police Patil are governed by Maharashtra Police Act, 1967. Section 9 of Maharashtra Police Act, 1967 provides for the penalties for misconduct committed by Police Patil which is as under:-

“9. Any Police-Patil or member of a village establishment liable to be called on or for the performance of Police duties, who shall be careless, or negligent in the discharge of his duties or guilty of any misconduct shall be liable to the following penalties, namely:—

- (a) censure;*
- (b) recovery from his remuneration of the whole or part of any pecuniary loss caused to Government;*
- (c) fine, not exceeding his remuneration for a month;*
- (d) suspension, for a period not exceeding one year;*
- (e) removal from service, which shall not disqualify from future employment under Government;*
- (f) dismissal from service which shall ordinarily disqualify from future employment under Government.*

Any of the penalties, mentioned in clauses (a) to (d) may be imposed by any Executive Magistrate not below the rank of Taluka Magistrate, and the penalties mentioned in clauses (e) and (f) may be imposed by any Executive Magistrate not below the rank of Sub-Divisional Magistrate who is competent to make the appointment of the Police-patil.”

11. Whereas Rule 9A of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Services) Order, 1968 provides for procedure to be observed for imposing penalties which is as under:-

“9A - Procedure to be observed for imposing penalties:

(1) No penalty shall be imposed on a Police Patil under clause (a) or (f) of Section 9 of the Act, unless the procedure prescribed in rule 55 or the Civil Services (Classification, Control and Appeal) Rules is followed.

(2) No penalty shall be imposed on a Police Patil under any other clause of the said Section 9, unless the procedure prescribed in rule 55A of the said rules is followed.”

12. Notably, ‘Order of 1968’ has been later amended by Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions Services) (Amendment) Order, 1985 and in Clause 9A of ‘Order of 1968’ following amendments are done:-

“1. This order may be called the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) (Amendment) Order, 1985.

2. In clause 9A of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968:

(a) In sub-clause (1), for the words, figures and brackets “rule 55 of the Civil Services (Classification, Control ad Appeal) Rules”, the words, figures and brackets “rules 8 and 9 of the

Maharashtra Civil Services (Discipline & Appeal) Rules 1979 shall be substituted.

(b) In sub-clause (2), for the words, figures and letter “rule 55A of the said rules”, the words, figures and brackets “rule 10 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 shall be substituted.”

13. Thus in effect for imposing penalties, the procedure contemplated in Rule 8 and 9 of ‘D & A Rules of 1979’ is required to be observed scrupulously. Rule 8 and 9 of ‘D & A Rules of 1979’ provides for issuance of detailed charge-sheet with articles of charges, appointment of Enquiry Officer and recording of evidence of witnesses with opportunity of cross examination and to examine defence witnesses etc. Suffice to say, for imposing penalty, regular DE as contemplated under ‘D & A Rules of 1979’ is mandated.

14. As the charges of neglect against the applicant are serious it is important to follow the principles of natural justice and give him an opportunity to be heard. In this case the SDO instead of conducting DE as contemplated in law terminated the service of the applicant. The SDO was required to adopt and follow the procedure as mandated in law in terms of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Services) Order, 1968. He was required to issue charge sheet and then to take further steps in terms of Rule 8 & 9 of MCS (Discipline & Appeal) Rules, 1979 in which there is inbuilt provision for filing written statement, record of evidence, cross-examination, examination of defence witness, so that delinquent is given full opportunity to defend him.

15. In view of the facts and circumstances of the case, I pass the following order.

ORDER

- (1) The Original Application is allowed and the impugned orders dated 11.1.2023 and 11.7.2022 are quashed and set aside.
- (2) The Applicant be reinstated in the post of Police Patil within two months from today.
- (3) The Respondents should take proper steps for initiating Departmental Enquiry against the applicant in accordance with law and such DE is to be completed within a period of three weeks positively.
- (4) No order as to costs.

**Sd/-
(Medha Gadgil)
Member (A)
30.4.2024**

Dictation taken by: S.G. Jawalkar.