

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.561 OF 2024**

**DISTRICT : PUNE**

Santosh Bhagchand Singal, )  
Age 28 years, occ. Nil, R/o At, Post, Talni, )  
Tq. Sillod, District Chh. Sambhajinagar, )..Applicant

Versus

1. The State of Maharashtra, )  
Through its Secretary, )  
Home Department, Mantralaya, Mumbai )
2. The Director General of Police, )  
Training and Special Units, )  
Maharashtra State, Mumbai )
3. The Superintendent of Police, Pune Rural, )  
Chavan Nagar, Pashan Road, Pune )
4. The Deputy Superintendent of Police, )  
Head Office, Chavan Nagar, Pashan Road, Pune )..Respondents

Shri R.L. Adhe – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson  
Shri A.M. Kulkarni, Member (A)  
RESERVED ON : 28<sup>th</sup> November, 2024  
PRONOUNCED ON: 17<sup>th</sup> December, 2024  
PER : Shri A.M. Kulkarni, Member (A)

### **J U D G M E N T**

1. Heard Shri R.L. Adhe, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.
2. The applicant prays that his candidature be considered for the post of Police Constable (Driver) as he is eligible in the category of VJ-A in the recruitment pursuant to advertisement dated 6.11.2022 issued by Superintendent of Police, Pune (Rural).
3. Ld. Advocate for the applicant states that advertisement was issued on 6.11.2022 for the post of Police Constable. The applicant applied for the post of Police Constable (Driver) in VJ-A category and in the General Merit List published on 29.3.2023, his name appeared at Sr. No. 466. Only two posts were available in VJ (A) category out of total 90 posts. Out of two posts, one post was reserved for Female and only one post was available for General (VJ-A) category. The Respondents published the provisional select list on 18.4.2023. Learned Advocate submitted that the candidate who was shown in the said select list on 18.4.2023 did not join the said post.
4. Ld. Advocate for the applicant submits that Sandeep K. Rathod, who has secured 140 marks did not join. The applicant has secured 136 marks. Therefore in between candidate R.A. Rathod who secured 139 marks and V.G. Padwal who secured 137 marks and A.T. Pawar who

secured 136 marks did not join, though they were asked to join. Thus, learned Advocate submits that the name of the applicant who has secured 136 marks in VJ(A) category should have been considered as eligible candidate immediately after Anil Pawar.

5. Learned Advocate for Applicant points out letter dated 29.12.2023 issued by office of DYSP, Head Quarter, Pune (Rural) to all Police Constables to appear for document verification on 03.01.2024. Learned Advocate submits that Shri Anil Pawar did not appear for document verification. Considering this submission that selected candidate does not appear for document verification, it is responsibility of the concerned authority to delete name of such candidate and call for next candidate so that post can be filled up. He states that such action should be taken within the time limit of the selection list. However, Respondents failed to implement the policy of GR dated 10.12.2020, therefore, candidature of Applicant is still pending.

6. Learned Advocate for Applicant further submits that name of Shri Anil Pawar was also not mentioned initially in the wait list of 18.04.2023. Learned Advocate submits that it is legitimate expectation from the Respondents to consider the candidature of Applicant being a meritorious candidate securing 136 marks for the post of Police Constable (Driver) who is from VJ-A category. The candidature of Shri Anil Pawar should have been deemed to be cancelled on 03.01.2024 as he did not remain present and authority should have decided on calling present Applicant. This incidence has occurred before the select list was issued on 18.04.2023. The select list lapsed on 17.04.2024 and applicant has filed present OA on 18.04.2024.

7. Learned Advocate for Applicant has pointed out that Applicant has submitted representation to the SP, Pune (Rural) on 04.01.2024

immediately on next date of deemed cancellation of candidature of Shri Anil Pawar and on 03.04.2024 he again requested Superintendent of Police, Pune (Rural) to consider his candidature on the vacant post of Police Constable (Driver) because no one from 'Select List' is willing to accept the appointment and last candidate who did not join viz. Shri Anil Pawar has secured same marks i.e. 136 marks as Applicant. However, no response to both these written requests was received till date from the Superintendent of Police, Pune (Rural). He filed this O.A. on 18.04.2024 i.e. a day after the select list expired.

8. Ld. Advocate for the applicant further submits that in the meanwhile the respondent no.3 issued advertisement for fresh recruitment of same category wherein the vacancy of Police Constable (Driver) of VJ-A category was carried forward. Instead of carrying the vacancy forward the applicant could have been accommodated based on his representation of 4.1.2024 and 3.4.2024. He further contended that these two representations of the applicant made to Superintendent of Police, Pune (Rural), who also is appointing authority should be treated as representations to the State.

9. Learned Advocate for Applicant relies on the following judgment:

- (1) State of J & K & Ors. Vs. Sat Pal, AIR 2013 SC 1258.**
- (2) Maharashtra Public Service Commission Vs. Jeevan N. Wader & Anr., W.P. No.12845 of 2018 decided by the Hon'ble Bombay High Court Bench at Aurangabad.**

However, the facts of both the cases are distinct and hence they are not applicable to the instant case.

10. Learned C.P.O. for Respondents points out that merit list was published on 29.03.2023 and select list was published on 18.04.2023.

The candidate namely Anil Pawar who was last candidate in wait list informed by his letter dated 19.04.2024 which was addressed to SP Pune (Rural) through Principal, Police Training School at Solapur where he was undergoing training that he is not willing to join the said post. The said letter was received by office of SP Pune (Rural) through Principal, Police Training School, Solapur on 23.04.2024. By the time, the select list has lapsed on 17.04.2024.

11. Ld. CPO mentions that each candidate was required to give his refusal to accept the offer of appointment within the time stipulated in the recruitment process. It was also told that if a candidate does not respond, three opportunities are given for him/her to respond. In the instant case Shri Anil Pawar did not give his refusal. However, said Shri Anil Pawar who was last candidate on the waiting list informed by his letter dated 19.4.2024 addressed to Superintendent of Police, Pune (Rural) through Principal, PTS, Solapur where he was undergoing training that he is not willing to join the said post. The said letter was received by the office of Superintendent of Police, Pune (Rural) on 23.4.2024. The select list has already lapsed on 17.4.2024 being one year period from the date of declaration of the provisional list.

12. Ld. CPO relies on the judgment of the Hon'ble Supreme Court in **Ali Hossain Mandal & Ors. Vs. West Bengal Board of Primary Education & Ors., Civil Appeal No.1873 of 2024 decided on 9.5.2024.**

13. We have considered the submissions of both the sides. The facts of the case relied upon by the Ld. CPO in *Ali Hossain Mandal* (supra) are distinct and not applicable to the present case.

14. By way of interim relief we have directed the respondents by order dated 16.7.2024 to keep one post of Police Constable (Driver) vacant.

While we generally agree with the Ld. CPO's contention that the process of recruitment has to come to finality, we differ on the point that the applicant has filed the instant OA after the lapsing of the select list. This is mainly because two representations made by the applicant to the Superintendent of Police, Pune (Rural) within time have not been addressed. Moreover, the vacancy for VJ-A category was not filled in this recruitment and the post came to be carried forward to the next recruitment process. It could also not be confirmed by the officer present from the office of S.P. Pune (Rural) whether this practice of issuing reminders thrice to each candidate who desire to refuse the order of appointment is followed including in the instant case.

15. Since the representations of the applicant were not addressed by the authority, we are of the view that representations were made within time and applicant's name did not get considered as the representations were not addressed. Keeping in view the larger goal envisaged by the Constitution of India in ensuring equal opportunity, equality and economic justice to all the citizens of the country, more so to the disadvantaged sections of the society, such as VJ-A to which the applicant belongs, we find that it is a fit case for redressing the grievance of the applicant. In view of the above, we pass the following order:

16. The Original Application is allowed. The Respondents are directed to accommodate the applicant and ensure that he is given appointment as Police Constable (Driver) within a period of five weeks at the latest. Interim order dated 16.7.2024 is made absolute. No order as to costs.

**Sd/-**

**(A.M. Kulkarni)**  
**Member (A)**  
**17.12.2024**

**Sd/-**

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**17.12.2024**

Dictation taken by: S.G. Jawalkar.