

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11848 OF 2014

SIRAJ RASIDMIYA DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. M.V. Ghatge h/f Mr. B.N. Gadegaonkar

AGP for Respondents: Mr. K.G. Patil

Advocate for added respondent : Mr. B.A. Darakh

.....

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 26th JUNE, 2015

P.C. :-

1. Issue notice to the added party. Mr. Darakh, learned counsel waives notice for added party.

2. The petitioner had filed Original Application against the order dated 9.3.2009, terminating the petitioner on the ground that at the time of appointment of the petitioner as Police Patil, the petitioner was below 25 years of age. Initially, the said Original Application was allowed. The order passed by the Tribunal was assailed by present respondent No.3. Writ petition was disposed of with liberty to the respondent to make representation/cancellation of appointment. The Sub Divisional Magistrate cancelled the second appointment on the ground that initial appointment itself was illegal. The petitioner

challenged the said order dated 14.1.2013 before the Maharashtra Administrative Tribunal, Aurangabad. The said original application was disposed on the ground that term of the petitioner is over.

3. According to Mr. Ghatge, the learned counsel for the petitioner, as per Rule 4 of Maharashtra Village Police Patil (Recruitment, Pay and Allowances and other Conditions of Service) Rules 1968 the petitioner is entitled for extension. In view of dismissal of writ petition, the prayer for extension is not considered by the authority. In the Original application the court did not decide as to whether initial appointment of the petitioner was illegal or not. As such, right of the petitioner is not being considered.

4. Mr. Darakh, learned counsel for respondent No.3, submits that now extension application also has been rejected by the authority. He has to challenge the said order. No illegality has been committed.

5. We have also heard the learned A.G.P. for respondent Nos. 1 and 2.

6. The order of termination dated 14.1.2013 is on the ground that on the date of initial appointment, the petitioner was below 25 years

of age. The said order was sought to be challenged in the Original Application. In the Original Application the court did not arrive at any conclusion as to whether the petitioner was below 25 years or above 25 years of age at the time of initial appointment. The further consideration of extension also depends upon the said facet of the matter, as the said aspect itself is not considered.

7. In the light of above, we set aside the order of the Tribunal and remand the matter back to the Tribunal. The parties shall appear before the Maharashtra Administration Tribunal, Aurangabad on 14.7.2015. The petitioner is at liberty to assail further order rejecting the extension.

8. Writ petition accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

rlj/