

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9169 OF 2015

Viresh s/o. Abasaheb Gade,
Age: 34 Years, Occupation Service,
R/o. Chasnali, Tq. Kopargaon,
Dist. Ahmednagar

PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through the Secretary
Home Department,
Mantralaya, Mumbai-32
- 2] The Sub-Divisional Magistrate,
Shirdi, Division Shirdi,
Tq. Rahata, District Ahmednagar
- 3] The Sub-Divisional Magistrate,
Sangamner, Division Sangamner,
District Ahmednagar

RESPONDENTS

...
Mr. D.A.Mane, Advocate for the Petitioner
Mr. S.B.Pulkundwar, APP for the Respondent/State
...

**CORAM : S.S. SHINDE &
A.M.BADAR, JJ.**
Date of Order : 07.09.2015

ORDER: [Per S.S.Shinde, J.]

1] This Writ Petition takes exception to the Judgment and Order dated 28th August, 2015 passed by the Maharashtra Administrative Tribunal at Aurangabad in Original Application No.495 of 2014.

2] The learned counsel appearing for the petitioner submits that, in pursuant to the proclamation issued on 14th December, 2011 by the respondent No.3, inviting applications from the eligible candidates for the appointment on the post of Police Patil for village Chasnali, Taluka Kopargaon, District Ahmednagar, the petitioner submitted his detailed application for the post of Police Patil along with relevant documents. After scrutiny of the application and the written examination, the petitioner was called for oral interview and accordingly, his name appeared at serial No.1 in the merit list. It is the submission of the learned counsel appearing for the petitioner that, the candidate at serial No.2 in the merit list filed complaint before the respondent No.3, contending therein that, as the petitioner is in service in the Ahmednagar District Central Co-operative Bank [in short 'ADCC Bank'], hence, he is not at all eligible to appoint as a Police Patil, and hence, the appointment order cannot be issued in favour of the petitioner, and the same may be issued in favour of the complainant. The respondent No.3, after considering reply filed by the petitioner, vide order dated 6th August, 2013, dismissed the complaint filed by the complainant namely Prakash Shinde. Though the complaint

was dismissed by the respondent No.3, the respondent No. 3 observed in the order that, the petitioner should file an undertaking within period of 15 days, thereby stating that, the petitioner is going to resign from his service as a Clerk in the ADCC Bank, failing which the selection of the petitioner on the post of Police Patil shall stand cancelled. As the request of the petitioner to appoint him on the post of Police Patil was not considered by the respondent authorities, the petitioner filed Original Application No. 495/2014 before the Maharashtra Administration Tribunal, Aurangabad [in short 'MAT'], thereby seeking direction to the respondent No.2 to issue appointment order for the post of Police Patil at village Chasnali, Taluka Kopargaon, District Ahmednagar, in favour of the petitioner. However, without considering the contention of the petitioner that, the petitioner has secured temporary job as a Clerk in the ADCC Bank on 10th November, 2012, and also appointment of the petitioner was subject to the decision of the Complaint [ULP] No.66/2011, pending before the Industrial Court, the MAT rejected Original Application filed by the petitioner. It is submitted that, very nature of the employment of the petitioner, appointment as a Clerk in the ADCC Bank was temporary, and therefore, the MAT ought

to have directed the respondent No.2 herein to issue appointment letter in favour of the petitioner.

3] On the other hand, the learned AGP appearing for the Respondent – State relying on the reasons recorded by the MAT submits that, since the petitioner did not abide by the undertaking given before the respondent No.3, and also was appointed on regular post, the MAT has rightly rejected his application.

4] We have heard the learned counsel appearing for the petitioner, and the learned counsel appearing for the Respondent – State. With their able assistance, we have perused the pleadings in the Petition and annexure thereto, and the reasons assigned by the MAT while rejecting the application of the petitioner. It appears from para 12 of the impugned Judgment that, the MAT perused the contents of the appointment letter of the petitioner of the ADCC Bank. The contents of the said letter are reproduced in para 12 of the impugned Judgment. After perusal of the appointment letter, it appears that, the petitioner did apply on vacant post, and accordingly, he appeared for examination and also interview, and

accordingly, he was appointed on probation for one year on certain terms and conditions. On perusal of the terms and condition of the clause No.8 of the said appointment letter, it appears that, on completion of probation period, the petitioner will be placed in pay scale, which is mentioned in the said clause. Upon plain reading of the appointment letter, it appears that, initial appointment of the petitioner was for one year on probation. On satisfactory completion of probation period, the petitioner would be entitled for pay scale mentioned in clause No.8 of the said appointment order. The said job as observed by the MAT appears to be transferable, therefore, the MAT after appreciating the provisions of Order [8] of the Maharashtra Village Police Patils [Recruitment, Pay, Allowances and other Conditions of Service] Orders, 1968, observed that, the Police Patil is entitled to cultivate land or engage in local business in the village. However, this shall be in such manner that it shall not be detrimental to the performance of his duties as Police Patil and embargo to the Police Patil is that he shall not undertake any full-time occupation elsewhere. The MAT, upon considering the material placed on record, reached to the correct conclusion that, the petitioner's job in the Bank is not part time as claimed by the petitioner.

5] In our opinion, the view taken by the MAT is in consonance with the material placed on record. Therefore, the MAT has rightly declined to issue any direction to the respondent No.2 to issue appointment letter in favour of the petitioner.

6] For the reasons aforesaid, the Petition sans merit, hence rejected.

Sd/-
[A.M.BADAR, J.]

Sd/-
[S.S. SHINDE, J.]

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