

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11554 OF 2014

SHAHAJI RAMA KAMBLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Rakhunde Pravin B
AGP for Respondents: Mrs.R.K.Ladda
...

**CORAM : S. V. GANGAPURWALA &
V. L.ACHLIYA, JJ.
DATED : 5th MARCH, 2015**

P.C. :-

Learned counsel for the petitioner submits that the date of birth of the petitioner as per school record and all other documents is 3/10/1955. The order of termination has been issued on 28/1/2010 on the premise that petitioner has completed 60 years of age. The said termination order is per-se illegal. The school leaving certificate and the extract of admission register has been produced before the Tribunal. However, the Tribunal has not considered the same on the ground that they are duplicate copies. According to the learned counsel, Police Patil is entitled to continue upto the age of 60 years. The petitioner is working as Police Patil since 1987 and every time, extension has been granted to the petitioner. Learned counsel submits that considering the date of birth of petitioner as 3/10/1955, the petitioner would retire on 2/10/2015. The order of termination is illegal. The Tribunal ought to have considered the same.

2] Learned AGP supports the judgment of the Tribunal.

3] We have considered provisions of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and Other Conditions of Service) Order, 1968. Even as per appointment order, tenure of the petitioner was to upto 6/8/2011. As per Rule 4 of the Order, 1968, a person may be appointed as Police Patil for a period of five years in the first instance and if the work is found satisfactory during that period, his appointment may be renewable thereafter for a further term of five years at a time, provided that no person attaining age of 60 years shall continue as Police Patil after term in the appointment order comes to an end. It is not right of Police Patil to get extension or continuation. The same is the discretion of the employer i.e. the State and if the employer finds the work of the Police Patil satisfactory during that period of his term, then renewal can be granted.

4] Even otherwise, if age of the petitioner is considered as submitted by the petitioner i.e. 3/10/1955 the petitioner would attain age of 60 years on 2/10/2015, hardly any period has remained and that too the same would be depending upon the decision of the State about the satisfactory work of the petitioner and whether to exercise discretion to grant continuation.

5] In light of above, Petition would render merely academic.

6] It is made clear that we are disposing of the Writ Petition in aforesaid ground and have not given any findings about the age of the petitioner. Writ Petition is accordingly disposed of. No costs.

V.L.ACHLIYA, J.

S. V. GANGAPURWALA, J.

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