

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.10424 OF 2015**Santosh S/o Nagnath Parade Vs. The State of Maharashtra and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.T.M.Venjane, advocate for the petitioner.
 Mr.V.M.Kagane, A.G.P. for the State.
 Mr.R.P.Adgaonkar, advocate for Respondent No.4.

**CORAM : S.V.GANGAPURWALA AND
 K.L.WADANE, JJ.**
Date : 14.02.2017.

PER COURT :

1. We have heard learned counsel for petitioner and passed speaking order on 24.1.2017. The said order reads as under :

“Heard.

2. *Learned counsel submits that pursuant to the advertisement, the petitioner had applied for the post of Police constable from Bandsman category. Six posts were meant for Bandsman category. The written examination were conducted. Six posts were filled in. The petitioner was not selected. The petitioner filed Original Application before the Maharashtra Administrative Tribunal. The Tribunal, rejected the Original Application. According to the learned counsel, the answers of question Nos.42,56,65,87 and 99*

were correctly answered by the petitioner but the answer key showed wrong answers. The petitioner ought to have been given five (5) marks more but petitioner was given only three (3) additional marks. The petitioner secured 145 marks. The last candidate appointed had secured 145 marks. The Tribunal failed to consider the aspect of wrong answers in the answer-key. The learned counsel further submits that out of six persons selected, candidate bearing Chest No.2525, namely Ganesh Laxman Divekar, is not appointed and/or has not joined the said post. As such the petitioner could be considered on the said post.

3. Learned A.G.P. states that the petitioner was allotted three (3) additional marks after the matter was referred to the Experts and on reverification, three (3) marks are added. No error is committed in this regard. The last candidate appointed has secured 145 marks but as he is elder to the petitioner in age, the said candidate is appointed though petitioner has equal marks.

4. Mr.Adgaonkar, learned counsel appears for Respondent No.4 and submits that as per relevant Government Resolution, as Respondent No.4 is elder to the petitioner, the Respondent No.4 is rightly appointed.

5. We have considered the submissions, so also have gone through the judgment delivered by the Tribunal. As far as answers enumerated in the answer-key are concerned, the same are

determined by the Experts in the said field. The Court can not substitute its own views. The Tribunal has rightly considered the said aspect. Upon reverification, it was found that the petitioner is entitled for three additional marks and the same has been given to the petitioner. In view that, it will not be possible for us to entertain the grievance in that regard. It is not disputed that Respondent No.4 is elder in age to the petitioner. The petitioner and Respondent No.4 have secured equal marks. As such the Respondent No.4 is rightly preferred. The judgment of the Tribunal, as such can not be faulted on any count.

6. *For the first time before this Court, it is submitted that one candidate bearing Chest No.2525, namely Ganesh Laxman Divekar, has either not been appointed or has not joined the post and that petitioner could have been considered on the said post. The learned A.G.P. shall take instructions in this regard.*

7. *Stand over to 7.2.2017. ”*

2. Pursuant to our order, learned A.G.P. states that he has received written communication to the effect that as per Government Resolution dated 27.6.2008, the vacant posts were considered as on the date of the advertisement and after the culmination of the selection process i.e. 31.12.2012, the said post has not been kept vacant.

3. In view of the above, we can not come to the aid of the

petitioner. The Writ Petition is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.14.02.2017.
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