

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

WRIT PETITION NO. 640 OF 2014

Chakradhar S/o Mohanrao Deshmukh,
Age : 36 years, Occu. : Police Patil,
R/o Patoda (TB), Tq. Naigaon (Kh),
Dist. Nanded. .. Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai – 32.
2. The Sub Divisional Magistrate/
Deputy Collector, Degloor,
Tq. Degloor, Dist. Nanded.
3. The Collector, Nanded,
Tq. & Dist. Nanded.
4. Rangrao S/o Anandrao Shinde,
Age : 33 Years, Occu. : Agril.,
R/o Patoda (TB), Tq. Naigaon (Kh),
Dist. Nanded. .. Respondents

Shri Upendra B. Bilolikar, Advocate for the Petitioner.
Ms. Vaishali N. Jadhav Patil, A.G.P. for Respondent Nos. 1 to 3.
Shri B. N. Gadegaonkar, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 22ND FEBRUARY, 2019.

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. The petitioner was selected as Police Patil of village Patoda (Tb). Present respondent No. 4 challenged the appointment of the petitioner by filing original application before the Maharashtra Administrative Tribunal. The Tribunal allowed the original application of the respondent No. 4 and set aside the appointment of the petitioner as police patil, aggrieved thereby present writ petition.

3. We have heard Mr. Bilolikar, the learned counsel for the petitioner and Mr. Gadegaonkar, the learned counsel for the respondent No. 4, so also the learned Assistant Government Pleader for respondent Nos. 1 to 3.

4. It is undisputed that in the written examination, the petitioner and the respondent No. 4 have secured same marks. The authority found that the petitioner and the respondent No. 4 possess H.S.C. qualification and as the petitioner is senior in age he was appointed, considering G. R. dated 27.06.2008.

5. The Tribunal found that the petitioner had not produced his certificate of H.S.C., as such the respondent No. 4 was more

qualified and ought to have been given preference and on the said count appointment of the present petitioner was set aside.

6. It is a matter of record that the petitioner possess H.S.C. certificate and at that time had appeared for B. A. Ist year. Of course, appearance for B. A. Ist year cannot be a higher qualification. The petitioner and respondent No. 4 both possess H.S.C. qualification and both of them secured same marks and as both were from open category, so also both were not belonging to disabled category, neither belonging to Ex-serviceman category, nor were belonging to nominee of Freedom fighter, then as per Clause No. 6.6. of the G. R. dated 27.06.2008, one who is senior in age has to be considered and has to be given preference and as the petitioner was senior in age, he was rightly given appointment order.

7. In the light of the above, impugned judgment of the Tribunal is quashed and set aside. Rule is made absolute in above terms. No costs.

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

Sd/-
[S. V. GANGAPURWALA, J.]