

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8413 OF 2018

The Director General of Police, S. B. Marg,
Colaba, Mumbai & ors.

....Petitioners

Versus

Riyaz Rafik Ahmed Patel

...Respondent

Mr. Y. S. Khochare, AGP for the Petitioner/State.
Mr. Vikram V. Pai, for Respondent no.1.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ**
DATED: 8th March, 2019

PC:-

1. The petition challenges the judgment and order passed by the Maharashtra Administrative Tribunal, Mumbai, dated 3rd May, 2016 vide which the learned Tribunal has allowed the Original Application (OA) filed by the original applicant, present Respondent, for a direction to the present Petitioners to give appointment to the applicant on the post of Police Constable or any Group 'C' post.

2. The claim of the original applicant was based on the judgment of this Court passed by the Aurangabad Bench in Writ Petition No.5440 of 2009, dated 5th February, 2010.

3. The original applicant has placed his claim, since his father, who was in employment of the Police Department as

Sub-Inspector, had died while he was on duty. The original applicant, therefore, applied for appointment on compassionate ground. The same was rejected by communication, dated 13th December, 2011, issued by the office of Directorate General of Police, Colaba, Mumbai.

4. The claim of the original applicant was basically resisted by the Petitioners, who were Respondents before the Tribunal, on the ground that the original applicant's father was working as Police Sub-Inspector, in Group 'B' post, and, as such, the original applicant was not entitled for the appointment on compassionate ground.

5. The learned Tribunal found that the post of Sub-Inspector has been held to be a Group 'C' post, by the judgment of the Aurangabad Bench of this Court in Writ Petition No.5440 of 2009, dated 5th February, 2010 as well as by the learned Tribunal in Original Application No.971 of 2010, vide judgment and order dated 30th October, 2014. Undisputedly, the learned AGP is not in a position to point out that either the judgment of Aurangabad Bench has been upset by the Hon'ble Supreme Court or the judgment and order of the Tribunal has been reversed by this Court.

6. The interference by this Court while exercising its jurisdiction under Article 226 of Constitution of India for examining the correctness of the order of the Tribunal is very limited. Unless the view is found to be perverse, it will not be permissible for this Court to interfere with the matter. We do not find any perversity in the impugned order. The decision taken by the learned Tribunal is on the basis of the view taken by the Division Bench of this Court and by its Predecessor in earlier Original Application. The view taken is in tune with the principle of judicial propriety.

7. In any case, though belatedly, the Respondent has now given effect to the impugned order by appointing the original applicant as 'Police Constable' with effect from 7th March, 2019.

8. The petition is, therefore, rejected. In the circumstances, there shall be no order as to costs.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]