

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.379 OF 2015.

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.B.R.Kedar, advocate for the petitioner
Mr.K.J.Ghute Patil, Asstt. Govt. Pleader for the State.
Mrs. Kutti Choudhary Chaitali, advocate for Respondent Nos.3 and 4.

**CORAM : S.V.GANGAPURWALA &
V.K.JADHAV, JJ.**
Date : 15.07.2015.

PER COURT :

1. Heard.
2. Mr.Kedar, learned counsel for the petitioner submits that the petitioner is employee of Respondent No.4 Village Panchayat, Varadsim, Tq.Bhusawal, Dist. Jalgaon. He is working as recovery clerk since 1994. 10% posts of Zilla Parishad – Class III and Class IV employees are meant to be filled in from the employees working with the respective Village Panchayats by giving age relaxation upto 45 years. According to the learned counsel, in 2009 also there were seats vacant for filling in 10% posts which are reserved for absorbing the employees from Village Panchayat. However, the Respondent Zilla Parishad did not fill in the said post and for the

first time thereafter in 2015 have prepared seniority list. According to the learned counsel, there are number of employees, who crossed 45 years of age but still are considered in the posts of 10% for Village Panchayat. The learned counsel illustrates the same from the list of appointments made of such employees. The learned counsel also relies on the judgment delivered by the Division Bench of this Court dated 23rd October, 2012 in W.P.No.1777/2011.

3. Mrs.Kutti, learned counsel for Respondent Zilla Parishad submits that as per Government Resolution dated 30.4.2005, the backlog of reservation can not be carried forward as the petitioner has crossed 45 years of age in December, 2014. His name is not included in the list.

4. We have considered the submissions of the learned counsel. This Court in Writ Petition No.1777/2011 vide Judgment dt.23.10.2012, has observed as under :

“4. We have perused seniority list presented on record. On perusal of list it transpires that name of petitioner finds place at Sr.No.417. Candidate at sr.no.448 by name Sunil Pawar as well as candidate at sr.no.526 by name Bapu More have been accommodated in Zilla Parishad thereby bypassing the claim of petitioner. A list of candidates who were in service of Panchayat Samiti and were absorbed in Zilla Parishad has also been placed on record. It has been pointed out that employees by name

Subhash Patil, Kishor Pawar, Balu Sonar, Suresh Patil, Mohansing Pardhi are some of the candidates who have crossed 45 years of age and have been absorbed in Zilla Parishad. On going through seniority list as well as orders of appointment issued in favour of various candidates from aforesaid category, we are convinced that claim of petitioner has been wrongfully denied. Petitioner has been discriminated in the matter of promotion by Zilla Parishad without there being any justifiable reason. Considering the facts and circumstances, there is no impediment for issuing direction as prayed for by petitioner. We, therefore, allow the petition and direct respondent no.4 to issue order of absorption in class III cadre in Zilla Parishad in favour of petitioner by granting relaxation of age as expeditiously as possible, preferably within a period of three months from today. Respondent/Zilla Parishad is also directed to settle the claim of petitioner in respect of his placement at appropriate place in the seniority list and shall also extend benefits pursuant to his placement in seniority list. Respondent/Zilla Parishad shall abide by directions within time stipulated above. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.”

5. Perusal of the aforesaid order, it is clear that even this Court had come to the conclusion that number of persons named therein who crossed 45 years of age are absorbed in the Zilla Parishad and

this Court directed to consider the claim of the petitioner on the ground that petitioner is discriminated.

6. In the present case also the learned counsel has pointed out various appointments made in the 10% category of the persons who had crossed 45 years of age. It is also a matter of record that 10% posts were vacant since 2009, however, the Zilla Parishad did not fill in the posts and the petitioner at the relevant time was eligible to be considered for absorption in the said 10% posts in the Zilla Parishad.

7. The list is now published for considering appointments to be made in Zilla Parishad for 10% seats meant for Village Panchayat employees after lapse of six (6) years.

8. Considering the aforesaid aspect of the matter, we pass the following order :

a) The Respondent No.3 shall list the petitioner at the proper place in the seniority list to be meant for absorption of the Village Panchayat employees in the Zilla Parishad for 10% posts reserved and shall extend the benefit as applicable.

b) The Writ Petition is accordingly disposed of. No costs.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.15.07.2015.
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