

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1243 OF 2008

HARISH NARAYAN BATTANWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. S.L. Bhapkar, Advocate h/f Mr. B. G. Deshmukh.

AGP for the respondent/State: Mr. S.K. Kadam.

Advocate for respondent no.2 to 4 : Mr. V.G. Patil, Advocate h/f Mr. S.M. Godsay.

CORAM : A.V. NIRGUDE & A.M. BADAR, JJ.
DATE : 6th JULY, 2015.

PER COURT:

1] Heard.

2] The petitioner, by filing this petition is trying to save his employment with respondent Nos. 2 to 4. Vide appointment letter dated 21st August, 2007, the petitioner was appointed on the post of Junior Technician subject to certain terms and conditions, which are mentioned in the said letter of appointment which is at Exhibit A (page 14 of the petition).

3] The petitioner was given a blank form for verification of character and antecedent. He filled up this form and clearly mentioned that he was facing prosecution for the offence punishable under Section 307 of IPC etc. The employer found this antecedent to be unsatisfactory and, therefore, refused to continue the petitioner. This is being challenged in this petition.

4] Learned counsel for the petitioner brought to our notice the Service Rules of respondent Nos. 2 to 4 in which there is mention that if an employee is convicted for a serious offence, without further enquiry, he can be dismissed. This rule, obviously, is not applicable to this case. The petitioner was not appointed and was not in actual service. Before that could happen, his appointment stood terminated because of the reason mentioned above.

5] Recruitment is a guarded process. Petitioner was found eligible to be appointed as Junior Technician subject to other conditions. One of the conditions was, his antecedents. If at the threshold, it was found that the petitioner was facing a criminal case in which serious allegations are made against him, it would be open for the employer to prevent such candidate from getting the post. The impugned action is not illegal. Petition, therefore, fails. However, it is brought to our notice that the petitioner has been acquitted in the criminal case and the court even observed that there was absolutely no evidence against the petitioner and others. In view of this, the petitioner is at liberty to make a fresh application, which shall be considered as per his entitlement, as per the Rules.

[A.M. BADAR]
JUDGE

[A.V. NIRGUDE]
JUDGE.

grt/-