

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2594 OF 2012

VIKRAM BHANUDAS WAGHCHAURE
VERSUS
THE STATE OF MAH AND ORS

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Advocate for Petitioner : Mr. Pagare S. N.
AGP for Respondent No.1: Mr. S.S. Tope
Advocate for Respondents 2 to 4: Mr. A.R. Salve

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 6th AUGUST, 2015

P.C. :-

1. Mr. Pagare, the learned counsel for the petitioner submits that the present petition is filed seeking directions against the respondents to consider the petitioner for promotion to the post of Line Inspector from S.C. category, more particularly in view of the administrative Circular No. 107 dated 12.8.2008. The learned counsel submits that the petitioner was appointed on the post of Line Helper w.e.f. 19.6.1993 by appointment order dated 17.6.1993. Thereafter, on 14.11.1996 the petitioner was promoted as Assistant Lineman. The petitioner passed the prescribed Trade test in the year 2001. Thereafter, the petitioner came to be promoted to the post of Lineman by order dated 19.1.2001. The petitioner was directed to produce the validity certificate. The petitioner's caste claim was

referred to the committee and the claim of the petitioner was validated vide order dated 10.7.2008 and the same was submitted to respondent No.4 on 31.7.2008. The learned counsel submits that though the petitioner was possessing validity certificate, the petitioner was not given promotion. However, those persons, who were not possessing the validity certificates were given promotions. It is due to inaction on the part of the respondents, the petitioner is made to suffer. The learned counsel submits that neither Mr. Sonkamble nor Mr. Pardhe were possessing the validity certificates, but they were promoted to the post of Line Inspector. The learned counsel submits that the respondents be directed to give the petitioner deemed date of promotion as that of 2008 for the post of Line Inspector.

2. Mr. Salve, the learned counsel for respondent Nos. 2 to 4 submits that the petitioner was way down in the seniority list. There was only one post available from S.C. category, as per the roster, for Line Inspector. There were five persons above the petitioner from S.C. category. The Government Resolution dated 16.6.2008 lays down that a person who is junior can be temporarily promoted to the post. Immediately when the senior gets the validity certificate, promotion of the junior person comes to an end. Mr. Sonkamble was not possessing validity in the year 2008, as such Mr. Pardhe was promoted and immediately when Mr. Sonkamble, got validity

certificate, he was promoted to the post of Line Inspector. Mr. Pardhe was also having the validity certificate in the year 2010 and Mr. Pardhe was promoted in the year 2012 to the post of Line Inspector and thereafter the post of Line Inspector has been abolished. As such, the claim of the petitioner cannot be considered.

3. We have gone thorough the pleadings, the circulars and the Government Resolutions. No doubt, the Circular relied upon by the petitioner lays down that in case the senior does not possess the validity certificate, then the person who is junior and possesses the validity, can be promoted. The same is laid down in the Circular dated 12.8.2008. However, the Government Resolution dated 16.6.2008 further lays down that even if such junior, who possesses the validity, is promoted and subsequently, if senior gets validity, then the promotion of the junior to the said post would come to an end. In the present case, earlier, Mr. Pardhe was promoted though Mr. Sonkamble was immediate senior. When Mr. Sonkamble got validity certificate, said Mr. Pardhe was reverted. Subsequently, in the year 2012 Mr. Pardhe was promoted to the post of Line Inspector when he got the validity certificate and thereafter the post of Line Inspector has been abolished. The parties would be governed by the Government Resolution dated 16.6.2008. If the Rules would have permitted, the junior possessing validity to be permanently promoted,

then the case of the petitioner could have been considered. However, even if promotion is given to the junior, when the immediate senior gets validity, the promotion given to the junior comes to an end as per the Government Resolution dated 16.6.2008.

4. In the light of that and in the light of the fact that the post of Line Inspector has been abolished after the year 2012 the case of the petitioner now cannot be considered.

5. Writ petition accordingly stands disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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