

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6453 OF 2015

SANDIP VYANKAT KHAIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Mr. S. B. Talekar and Mr. U. R. Awate
AGP for Respondent No. 1 : Mrs. S. A. Dhumal
Advocate for Respondent Nos. 2 and 3 : Mr. S. S. Tope
Advocate for Respondent Nos. 4 to 12 : Mr. U. S. Undre
.....

**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 09th SEPTEMBER, 2015

P.C. :-

1. This petition takes exception to the seniority list prepared on 22.06.2015 of para-teachers working with Zilla Parishad, Osmanabad. All these teachers worked as para-teachers in Vasti Schools scattered all over the District. It is an admitted fact that these Vasti Schools were started way back in the year 2002 and from time to time, the teachers of these Vasti Schools were upgraded into Primary Schools. It is also an admitted fact that some of the Vasti Schools stopped working. They were closed down. Retrenchment of the teachers working in those Schools took place. But, on 1st March, 2014, the Government took a policy decision to recognize the claim of all such teachers who were either working in Vasti Schools or who

had been working in Vasti Schools, to get regular appointment as Assistant Teachers in Zilla Parishad Primary Schools. Soon after the decision was taken, the Zilla Parishad prepared two seniority lists. One list was of 82 para-teachers who were, at the relevant time, working as para-teachers in various Schools in the district. The other list consisted of 44 names of the candidates who were not working but were retrenched earlier because of the closer of Schools.

2. The Zilla Parishad appointed 82 persons as Assistant Teachers. Aggrieved by this, the teachers of the second list came before this Court and made a grievance that the implementation of the policy was not proper and they were unjustly left out. They had filed Writ Petition No. 6484 of 2014 and Writ Petition No. 9920 of 2014. Both these petitions were disposed of because the Zilla Parishad had conceded that they would take proper steps by taking review of the earlier decision of absorption of para-teachers and by making further appointment as per seniority. Pursuant to this statement, the Zilla Parishad prepared the impugned seniority list of para-teachers. This list consists of 126 names and in this list, the fact, as to whether a para-teacher was working on 01.03.2014 as para-teacher or not, is disregarded. The list is made as per the date of appointment as para-teacher. Because of this, the name of the petitioner went down at serial No. 125.

3. The learned counsel for the petitioner argued that even now, the list prepared is defective because it is not as per the provisions of the policy. He pointed out that, seniority list is required to be prepared only amongst those who got absorbed. In other words, his argument is that the seniority is required to be prepared amongst only those who are already absorbed. He suggested that when others would get absorbed, their seniority would depend on their date of appointment as para-teacher.

4. The above submission made by the learned counsel for the petitioner is patently incorrect. If we read the entire Government Resolution, one gets a clear idea that para-teachers are one class amongst whom the seniority would be fixed as per the date of their appointment. The Government Resolution did not make any difference between para-teachers as to whether on 1st March, 2014, they were working or they were retrenched. Their status on the day of the Government Resolution is immaterial for getting an opportunity of absorption. The Government Resolution clearly indicated that a para-teacher, who gets appointed earlier in time, would get preference even in absorption. The approach is logical and we find no error in it. The petitioner was absorbed in the year 2014 and is likely to lose the advantage of getting absorbed out of turn. The petitioner has to accept this as a fact of life.

Besides this, the petitioner stands a good chance of getting absorbed some time latter because such statement is made by the Zilla Parishad in affidavit-in-reply dated 17.08.2015. The petition, therefore, does not give rise to a question that requires admission.

5. The writ petition is disposed of. Request to stay the effect of this order is rejected.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

vre/