

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 5874 OF 2011

1. Sanjay s/o Jagannath Bhat
age 51 years, occ. service
r/o Gangaram Plot, Bhusawal
Tq. Bhusawal, Dist. Jalgaon.
2. Mohan s/o Vitthalrao Jathar
age 55 years, occ. service
r/o Ashirwad Dream City
Pungaon road, Pachora,
Tq. Pachora, Dist. Jalgaon

.. PETITIONERS

VERSUS

1. The State of Maharashtra
Through the Secretary for
Rural Development Department,
Mantralaya, Mumbai.
2. The State of Maharashtra
Through the Secretary for
Finance Department,
Mantralaya, Mumbai.
3. The Divisional Commissioner,
Nashik Division,
Nashik.
4. The Chief Executive Officer,
Zilla Parishad, Jalgaon
District Jalgaon.

.. RESPONDENTS

Mr. A.V. Hon, advocate for petitioners.
Mrs. A.V. Gondhalekar, AGP for the State.
Mr. Vijay Sharma, advocate for respondent no. 4.

=====

**CORAM : R.M. BORDE &
V. K. JADHAV, JJ.**

**RESERVED ON : 28th SEPTEMBER, 2015.
PRONOUNCED ON : 16th OCTOBER, 2015.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. Petitioners are objecting to the order passed by the Chief Executive Officer, Zilla Parishad, Jalgaon, dated 25.07.2011 whereunder they have been reverted to the post of Junior Assistant.

4. Petitioner no. 1 possesses H.S.C. qualification in addition to proficiency in Marathi shorthand and Marathi typing. Petitioner no. 2 possesses S.S.C. qualification and is proficient in English shorthand and English typing. Petitioner no. 2 is also having proficiency in Marathi Shorthand and Marathi typing. Petitioner no. 1 jointed Zilla Parishad services as Steno Typist in the year 1984 whereas petitioner no. 2 initially joined services in the year 1986 as Junior Assistant. Petitioner no. 2 was given benefits of time bound promotion and was awarded grade admissible to Stenographer (Lower Grade) in the year 1998. In the year 2003, the Government of Maharashtra issued direction for taking review of the posts in the respective departments and to prescribe modalities and procedure for absorption of staff members who were found to be surplus during the review. Direction was issued to Zilla Parishad in the year 2003, to fill up certain posts by direct recruitment. It is the contention of petitioners that on one hand, the State Government has taken a decision in respect of absorption of employees who were held surplus whereas, on the other hand, directions were issued to Zilla Parishad to make appointment by direct

recruitment. Petitioners are aggrieved by order issued by the Chief Executive Officer on 25.07.2011 directing their reversion to the post of Junior Assistant and, according to petitioners, while issuing such direction, their pay scale has not been protected and they are put to financial hardship.

5. Affidavit-in-reply has been presented on behalf of respondent no. 3 i.e. Divisional Commissioner, Nashik Division, Nashik, wherein it has been stated that in view of Government Resolutions dated 10.09.2001 and 24.01.2006, the Divisional Commissioner, Nashik Division, Nashik, issued order on 26.10.2006 and, in pursuance thereto, petitioners have been absorbed in Zilla Parishad, Jalgaon as Junior Assistants. It is contended that in view of the policy of the State Government, though the petitioners are directed to perform the functions of Junior Assistant, their pay scale needs to be protected as per Government Resolution.

6. Affidavit-in-reply is presented on behalf of respondent no. 4 Chief Executive Officer, Zilla Parishad, Jalgaon, wherein, it has been stated that in view of directions issued by the Divisional Commissioner in various communications and during the professional discussion on 03.06.2008, the following instructions were given :

1. The Zilla Parishad should send a independent proposal for relaxation of recruitment rules to fill-up the post of stenographer (Lower grade) by promotion instead of direct recruitment.

2. The name of juniormost Steno Typist Mr. S.A. Khan

who was surplus with the District Rural Development Agency (DRDA) has been deleted by sending proposal to the Government, however, his name should again be included and for that purpose, independent proposal be sent to the Government alongwith relevant documents.

3. In case there are no vacancies under the Zilla Parishad of the post Senior Assistants (Clerical Grade), in the pay scale of Rs.4,000 - Rs. 6,000, and if such vacant posts are available under other departments, a proposal for absorption be sent.

4. A proposal as to how the concerned steno typists referred in the order dated 26.10.2006 of the Divisional Commissioner, Nashik should be absorbed, be sent.

It is further stated that in view of above directions, necessary information has been submitted by Zilla Parishad to the Divisional Commissioner, Nashik on 09.01.2009, however, no directions are received from the Divisional Commissioner. It is further clarified that on 10.12.2010, the Divisional Commissioner, Nashik, directed absorption of concerned surplus employees in accordance with the Government Resolution dated 27.06.2003 and, in observance of the directives, necessary order dated 25.07.2011 came to be issued.

7. Petitioners have raised grievance that even though they have been absorbed on the lower post, in accordance with the Government Resolution dated 19.09.2011, Appendix 3, paragraph no. 16, the pay scale of petitioner shall have to be protected. The grievance raised by petitioners in respect of

reduction of pay deserves to be considered.

8. In the facts and circumstances of the case, this petition can be disposed of by issuing direction to respondents to consider the claim of petitioners for absorption on the post carrying pay scale which petitioners were entitled to prior to the date of issuance of order of reversion to the post of Junior Assistant. Respondents shall ascertain the desirability to accommodate petitioners on equivalent post and, if it is not possible, it shall be ensured that their financial interest is not prejudiced and the pay scale to which they were entitled prior to their reversion is protected. Respondents shall take appropriate steps as expeditiously as possible, preferably within a period of four months from today. Rule made absolute to the extent as specified above. In the facts and circumstances of the case, there shall be no order as to costs.

(V.K. JADHAV)
JUDGE

dyb

(R. M. BORDE)
JUDGE