

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

WRIT PETITION NO. 738 OF 2013

Shivaji Harsingh Rathod

.. Petitioner

Versus

The Secretary, Technical Education Department

Mantralaya, Mumbai and Others

.. Respondents

Shri Kakasaheb B. Jadhav, Advocate for the Petitioner.

Shri K. M. Suryawanshi, A. G. P. for Respondent Nos. 1 and 2.

Respondent Nos. 3 and 4 are served.

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

DATE : 13 AUGUST, 2015.

PER COURT :

. Mr. Jadhav, the learned counsel submits that, petitioner joined the service as Drawing Instructor in the year, 1983. The differential treatment is made in the matter of promotion. The learned counsel submits that, the common seniority list is prepared for the instructors of all the trades and the transfer orders were issued in the past for transferring employees working as Craft Instructors to the other trades. The Drawing Instructors including the petitioner were transferred as instructors of other trades. The act of the respondents in preparing the separate seniority list for Drawing Instructor is illegal and in breach of the existing practice. The learned counsel submits that, in the seniority list published on 20th September, 2001, of all instructors, names of all instructors who are selected as Drawing Instructor are not included. According to the learned counsel, the act of the respondent is illegal. There cannot be any policy which would

not provide any promotional avenue to the petitioner. The learned counsel relies on the judgment of the Apex Court in a case of **A. Satyanarayana and Others V/s S. Purushotham and Others** reported in **(2008) 5 SCC 416**. The learned counsel further states that, one Mr. Wade, was also appointed as Drawing Instructor, but he has been promoted as a Group Instructor.

2. The learned Assistant Government Pleader on instructions states that, said Mr. Wade was declared as surplus and absorbed in Trade Group and from the Trade Group he was promoted as Group Instructor. According to the learned A. G. P. the Recruitment Rules are framed in the year, 1973 and they are crystal clear. For Group Instructors/Store Superintendents the feeder cadre is Class-III Instructoral Staff in the Government I. T. I. /Centers possessing minimum 5 years teaching experience in the respective trade group. It is only amongst Class-III Instructoral Staff employee can be promoted to the post of Group Instructor. The Tribunal has rightly considered the said aspect.

3. We have considered the submissions of learned counsel for the respective parties.

4. The Recruitment Rules for the post of Craft Instructor and the Drawing Instructor are different. The qualification for Craft Instructors and Drawing Instructors is different. As such petitioner who was appointed as Drawing Instructors cannot be termed as Craft Instructor. The promotion can be made to the post of Group Instructor only from the feeder cadre and Drawing Instructors do not fall in the said feeder cadre.

5. Considering the above, we do not find any error in the judgment delivered by the Tribunal.

6. The contention of the petitioner is that, even the Government Resolution dated 05th July, 2010 with regard to the A. C. P. S. Benefit is not extended to the petitioner.

7. The same was not gamut of contention before the Tribunal. The present petition is filed against the judgment delivered by the Tribunal.

8. However, the petitioner may approach before the respondents seeking benefits of the Government Resolution dated 05th July, 2010 i. e. A. C. P. S. benefit. The respondents shall consider the claim of the petitioner on its own merits, in accordance with law, rules and policy as may be applicable, expeditiously and preferably within a period of six (6) months from the date of receipt of the said application. The writ petition accordingly stands disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug. 15