

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

**REVIEW APPLICATION NO. 149 OF 2015
IN
WRIT PETITION NO. 5387 OF 2013**

Dr. Tatyarao Dinaji Rasal .. Petitioner

Versus

The State of Maharashtra & ors. .. Respondents

Mr. V.D. Salunke, Advocate for the petitioner.
Mr. S.D. Kaldate, AGP for respondent/State.

**CORAM : A.V.NIRGUDE &
V.K.JADHAV, JJ.
DATED : 19.10.2015**

P.C. :-

1. This application seeks review of our judgment dated 19.08.2015 in Writ Petition No. 5387 of 2013, mainly on the ground that while appreciating the case of the applicant, we did not take into account the ratio laid down in the judgment of the Supreme Court in the case of State of J. & K. and Ors. Vs. Satpal reported in 2013 AIR SCW 1029.

2. In-deed, we did not refer to this judgment in our judgment and at the request of learned Counsel for the applicant, we once again perused the judgment. The

facts of present case and the facts of the case of **Satpal (Supra)** are more or less similar. In that case, Satpal was third choice of the selection committee. The post fell vacant in 2008. The Selection Committee offered appointment to first two candidates. When they declined, the Selection Committee ought to have offered appointment to Satpal. This was not done. The High Court whose judgment was challenged by the State of J. & K. by filing petition before the Supreme Court held on facts that when the second incumbent was offered appointment and when he refused to accept the same, the Selection Committee ought to have offered the appointment to Satpal. The Supreme Court upheld the finding recorded by the High Court that offer of the appointment could not have been on whims and fancies of the Selection Committee. The judgment of the Supreme Court indicated clearly that wait list prepared by the Selection Committee can be discarded for legitimate reason and in such event, the remaining persons on the wait list would not have a right of appointment.

3. In this case also the facts are discussed and we held that the Selection Committee had provided reasons for discarding wait list altogether. We find no error in our view even though we did not refer to the judgment of the Supreme Court in the case of **Satpal (Supra)**.

4. Learned Counsel for the applicant tried to convince us by contending that the Selection Committee ought to have revived the wait list. After due enquiry it was found that the selection process was not defective at all. This happened in 2010. He also contended that in 2011 the employer sought guidance from the Government as to what they should do about the selection process, wait light etc. He tried to indicate that the vacancy was available in 2011 and therefore the appointment ought to have been offered to his client. We are not inclined to stretch the logic further than the date of creation of vacancy.

5. For the aforesaid reasons, the Review Application stands rejected.

[V.K.JADHAV, J.]

[A.V. NIRGUDE, J.]