

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL WRIT PETITION NO. 5248 OF 2015

Chief Executive Officer. ... Petitioner.

V/s.

Mr. Pramod Rangnath Navale. ... Respondent.

With

CIVIL WRIT PETITION NO. 10362 OF 2015

Chief Executive Officer. ... Petitioner.

V/s.

Mr. Narendra Dangal Kachave. ... Respondent.

With

CIVIL WRIT PETITION NO. 10364 OF 2015

Chief Executive Officer. ... Petitioner.

V/s.

Mr. Rajendra Ganpat Bhujbal. ... Respondent.

With

CIVIL WRIT PETITION NO. 10404 OF 2015

Chief Executive Officer.

... Petitioner.

V/s.

Mr. Vilas Baliram Patil.

... Respondent.

Ms. Anamika Malhotra a/w. Ms. Ashwini Selukar for the Petitioner in all Petitions.

Mr. M.D. Lonkar i/b. Leena Patil for the Respondents in all the Petitions.

CORAM : N.M. JAMDAR, J.***DATE : 20 OCTOBER, 2015.*****ORAL ORDER :-**

Writ Petition No. 10404 of 2015 is not on board. At the request of the Counsel, taken on board as it is connected with the other three Petitions as similar facts are involved.

2. By these Petitions the Zilla Parishad challenges interim order passed by the Industrial Court, Nasik dated 20 January 2015 granting stay to the order of reversion dated 10 December 2014 passed against the Respondents.

3. The learned Counsel for the Zilla Parishad contended that the promotion granted to the Respondents to the post of Office Superintendent was incorrect as the Respondents were not

entitled to be promoted in law and therefore, they are rightly reverted as Senior Assistant Clerk. The learned Counsel submitted that the Industrial Court did not consider the implications of the amendment to Rule 5 of Maharashtra Zilla Parishad District Service Post Recruitment Examination Rule, 1985. She submitted that since the Respondents had not passed the required examination within the stipulated period, they had relinquished their claim. It is her contention that the operation of the Rules of 1985 will have to be considered from the date of inception i.e. year 1985, and the finding of the Industrial Court that they are not applicable retrospectively, is not correct.

4. The learned Counsel for the Respondents on the other hand submitted that the interpretation placed by the Industrial Court on these Rules is correct and in any case the action of reversion cannot be sustained as the Respondents had worked on the promoted post for period of two years and without giving any hearing they are reverted. He relied upon the decision of the **Union of India and Anr. v/s. Narendra Singh [(2008) 1 SCC (L & S) 547]**.

5. It is not disputed that the Respondents were promoted in January 2012 and they were reverted in December 2014, without giving any hearing. In the impugned order, the Industrial Court referred to the clarification issued by the Government on 7 June 2011 holding that the requirement of passing examination is

not applicable to those who entered the services before 24 May 1999. Thereafter, it appears that the Zilla Parishad prepared the seniority list, on that basis. The Respondents were shown at Serial Nos. 4, 5, 3 and 6, respectively and they are promoted. It is not alleged that there was any fraud and misinterpretation by the Respondents. In the circumstances, the contentions of the learned Counsel for the Respondents based on the two decisions of the Supreme Court in the cases of **Ram Ujarey v/s. Union of India [(1999) SCC (L & S) 374]** and **Union of India and Anr. v/s. Narendra Singh [(2008) 1 SCC (L & S) 547]** will have to be prima-facie accepted. The promotions were granted by the Zilla Parishad itself and the Respondents were permitted to work on the post for two years and if they were to be reverted on the interpretation of an amendment, they ought to have been given a hearing. In view of the clarification issued by the State Government on 7 June 2011, it cannot be said that there was no prima facie case at all in the claim of the Respondents.

6. In the circumstances, the discretion used by the Industrial Court to grant interim order in favour of the Respondents, cannot be faulted with. The Writ Petitions are accordingly rejected. It is clarified that the observations made above are prima-facie in nature and the complaint will be decided on its own merits.

(N.M. JAMDAR, J.)