

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1054 OF 2014

(Vinod s/o Madhukarrao Naikwade vs. Collector, Nagpur District President Selection
Committee, ZP, Nagpur & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
JANUARY 15, 2015.**

Heard Shri Neware, learned counsel for the petitioner and Shri Rode, learned AGP for the respondent No. 1 and Mrs. Maldhure, learned counsel for respondent Nos. 2 & 3.

The only question is, whether the petitioner who is placed in the select list at Sr. No. 1 can be absorbed against a vacancy becoming available later on because of certificate/ consent given by the District Ex-Servicemen Welfare Board and State Ex-Servicemen Welfare Board.

The fact that the petitioner is placed at Sr. No. 1 and if any vacancy accrues during the life time of select list, he could be appointed, is not in dispute. As per the provisions of the Government Resolution dated 27.06.2008 particularly para 7, life of select list is one year or more if need which is likely to arise

beyond such period of one year is also looked into. Here the facts show that life of select list was one year. One post was reserved for Ex-servicemen. Nobody was selected against that vacancy. The said post was for Other Backward Class (OBC)/ Ex-servicemen. That candidate did not become available.

The procedure to be followed in this situation is stipulated in Government circular dated 14.05.1986. Clause No. 6 stipulates that if such a candidate belonging to Ex-servicemen does not become available, the post remaining vacant should be carried forward for one year. A certificate of such non-availability needs to be obtained from District Ex-Servicemen Welfare Board and State Ex-Servicemen Welfare Board, thereafter only the post can be de-reserved i.e. thrown open for filling in from the open category. Thus, the post can be filled in through open category i.e. non-Ex-servicemen after receipt of such certificate and not before that. As the filling up of such vacancy is only after such certificate, hence select list in which the petitioner has been placed at Sr. No. 1 cannot be correlated with such vacancy which may become available in future.

We, therefore, find grievance in the present writ petition unsustainable. In any case the life of that select list has already expired and as such to fill in the future vacancy, that select list was not

relevant.

Shri Neware, learned counsel, at this stage states that the petitioner has again applied in response to fresh advertisement whereby 21 vacancies are sought to be filled in. Mrs. Maldhure, learned counsel is denying knowledge of any such advertisement.

If the petitioner has already applied in response to any such advertisement, the respondents are duty bound to consider the eligibility and entitlement of the petitioner in accordance with law.

With these observations, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

*G.S.