

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 773/2015

(GOVARDHAN NAMDEO GAIKWAD **VERSUS** GOVERNMENT OF INDIA & OTHERS)

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

Court's or Judge's orders

Shri B.M. Khan, counsel for the petitioner.

Shri R.G. Agrawal, counsel for the respondents.

**CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.**

DATE : DECEMBER 01, 2015.

By this petition, the petitioner seeks a declaration that the refusal on the part of the respondent-Bharat Sanchar Nigam Limited in appointing the petitioner in preference to Shri Nitin Nemade and Shri Ravi Bhojane is bad in law. A direction is sought by the petitioner to the respondents to re-employ the petitioner on the post of the Helper.

The petitioner claims to have been employed on daily wages for performing the services of Bharat Sanchar Nigam Limited on 01.08.2005. The services of the petitioner were orally terminated on 01.05.2007. According to the petitioner, the issue of removal of the petitioner from service was agitated by the petitioner and the other employees before the respondent-Nigam. The petitioner made a representation to the respondent-Bharat Sanchar Nigam Limited on 19.09.2014 and the respondent-Nigam informed the petitioner that the claim of the petitioner for appointment cannot be accepted and the petitioner should apply whenever the posts are duly advertised. According to the petitioner, the respondent-Nigam has employed Shri Nitin Nemade and Shri Ravi Bhojane temporarily, without considering the case of the petitioner for re-employment. In the aforesaid set of facts, the petitioner has sought the declaration that the refusal on the part of the respondent-Nigam to appoint the petitioner in preference to the two other workers is bad in law.

In our view, the petitioner has abused the process of the Court by filing a petition under Article 226 of the Constitution of India for the aforesaid relief. The services of the petitioner were admittedly terminated on 01.05.2007. The petitioner ought to have filed proceedings before the appropriate forum challenging the order of termination, if there were grounds to do so. The petitioner has filed this petition solely on the ground that Shri Nitin Nemade and Shri Ravi Bhojane could not have been appointed without considering the case of the petitioner for re-employment. The petitioner has not joined the two other persons, whose names find place in the prayer clause. The petitioner appears to have been appointed as a daily wager in 2005 and his services were terminated in May-2007. In this background, the petitioner could not have filed the writ petition after eight years from the date of his termination, under Article 226 of the Constitution of India for seeking the aforesaid relief.

In the circumstances, we dismiss the writ petition with costs.

JUDGE

JUDGE

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