

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 924/2015

(Naushad Ahmad s/o Abdul Jaleel vs. The State of Maharashtra and others)

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

Court's or Judge's order

.....
Dr. A.H. Jamal, Advocate for the petitioner
Mrs. Bharati Dangre, Government Pleader for Respondent No.1
Mr. N.S.Autkar, Adv.for respondents 2 and 3

CORAM : SMT. VASANTI A. NAIK &
A.I.S. CHEEMA, JJ.

DATED : 20th October, 2015.

Heard.

By this Petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, Nagpur, dated 14.9.2010, dismissing the Original Application filed by the petitioner, for a direction to the respondents to appoint the petitioner, on the post of Clerk-cum-Typist.

In pursuance of an advertisement of the respondents inviting applications for appointment on the post of Clerk-cum-Typist, the petitioner had applied for the post of Clerk-cum-Typist that was earmarked for the physically challenged. The petitioner suffers from total blindness. The

petitioner was permitted to participate in the selection process and was placed at Sr. No.3 in the select list, that was prepared in the year 2007. The candidates that were placed at Sr. Nos. 1 and 2 in the select list of physically challenged persons, refused to join on the post of Clerk-cum-Typist, and hence the petitioner asked the respondents to appoint the petitioner on the said post. The medical examination was conducted and it was found that the petitioner was fit for appointment on the post of Clerk. Despite the opinion of the medical authorities, the petitioner was not appointed and hence the petitioner filed Writ Petition No. 2081/2008, seeking a direction to the respondents to consider the representation of the petitioner for appointment on the post of Clerk-cum-Typist. The said Writ Petition was disposed of with the direction to the respondents to decide the representation within a period of four weeks. The representation of the petitioner was rejected by the respondents. The petitioner filed Original Application No.22/2009 against the rejection of his representation. The Original Application was dismissed, by the order dated 14.9.2010. The said order was impugned by the petitioner in Writ Petition No.397/2012. While disposing of the Writ Petition, this Court observed that the petitioner was not able to point out any material to show that the post of Clerk-cum-Typist could be filled in, by the appointment of a totally blind candidate.

While disposing of the Writ Petition, without interfering with the order of the Tribunal, this Court, again, permitted the petitioner to make a representation to the respondents to consider appointing the petitioner on the post of Clerk-cum-Typist. The petitioner was granted liberty to approach again, if he is in a position to point out that the post could be filled by a totally blind candidate. The representation of the petitioner appears to have been rejected again, on 27.10.2014. After the rejection of his representation, the petitioner has filed the instant Petition, once again challenging the order of the Tribunal that was challenged in Writ Petition No. 397/2012.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted in the circumstances of the case. The petitioner had applied in pursuance of an advertisement in the year 2007 and since the representation of the petitioner for appointing him was not considered and decided, the petitioner had filed the first Writ Petition seeking a direction to the respondents to decide the same. The respondents decided the same and rejected it. The petitioner filed an Original Application before the Tribunal challenging the order of rejection of his representation. By a reasoned order, the Tribunal has upheld the action

of refusal on the part of the respondents in appointing the petitioner. The said order of the Tribunal was challenged in the second Writ Petition, filed by the petitioner. This Court found, after hearing the counsel for the petitioner for long, that there was nothing on record to show that a totally blind person could have been appointed on the post of Clerk-cum-Typist. Hence, this Court did not interfere with the order of the Tribunal in the second Writ Petition filed by the petitioner. However, while disposing of the Writ Petition, this Court again permitted the petitioner to make a representation to the respondents. The respondents have rejected the second representation of the petitioner. Even today, the learned counsel for the petitioner is not in a position to point out that a totally blind person could be appointed on the post of Clerk-cum-Typist. Despite the dismissal of the Original Application, in the year 2010, and the disposal of the Writ Petition challenging the order of the Tribunal without interfering with the same, the petitioner has filed the third Writ Petition challenging the order rejecting the representation without any material on record, to show that a totally blind person could be appointed on the post of Clerk-cum-Typist. The process cannot go on repeatedly in the manner as is being done in this case. If the representation was rejected earlier and if there was no material to show that a totally blind person

could be appointed on the post of Clerk-cum-Typist, the petitioner cannot approach this Court, time and again, seeking a direction to the respondents to appoint the petitioner on the post of Clerk-cum-Typist. We reiterate that even today, the learned counsel for the petitioner is not in a position to point out that the post of Clerk-cum-Typist could be filled up by appointing a totally blind person. We have seen the Government Resolution where certain posts are earmarked for totally blind persons also. For example, a post of Music Teacher could be filled up by appointing a totally blind candidate. In the absence of any material to show that the post of Clerk-cum-Typist could be filled by appointing a totally blind candidate, the action of the respondents cannot be faulted with. Also, the petitioner cannot challenge the order of the Tribunal on two occasions. In the second Writ Petition, the petitioner had challenged the order of the Tribunal without any success. The same cannot be challenged again in this Writ Petition.

The Writ Petition is dismissed with no order as to costs.

JUDGE

JUDGE

sahare