

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 787 /2015

(Damodhar Mangru Gurnule vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
Miss N P Mehta, AGP for Respondent no.1
Smt.Indira Bodade,Adv.for Respondent no.2}.

AND

WRIT PETITION NO. 788 /2015

(Bandu s/o Maroti Dhande vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
Miss T.Khan, AGP for Respondent no.1
Smt.Indira Bodade,Adv.for Respondent no.2}

AND

WRIT PETITION NO. 1099 /2015

(Shri Ratnakar s/o Mansaram Chincholkar vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
Miss T.Khan, AGP for Respondent no.1
Mr N W Almelkar, Adv.for Respondent no.2}

AND

WRIT PETITION NO. 1103 /2015

(Shri Diwakar s/o Shrawan Wakade vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
Mr. N.R.Rode, AGP for Respondent no.1
Mr. N. W.Almelkar, Adv.for Respondent no.2}

AND

WRIT PETITION NO. 1104 /2015

(Shri Rajeshwar s/o Pandurang Narnaware vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
Miss T.Khan, AGP for Respondent no.1
Mr. N. W. Almelkar, Adv.for Respondent no.2}

AND

WRIT PETITION NO. 1105 /2015

(Shri Yadav s/o Shankar Ballarpure vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
Mr. D.B.Patel, AGP for Respondent no.1
Mr. N. W.Almelkar, Adv.for Respondent no.2}

AND

WRIT PETITION NO. 1109 /2015(Kishore s/o Sadashiv Ramteke vs. State of Maharashtra and another)

{ Mr. V.D. Raut, Advocate for the petitioner
 Mr. N.S.Khubalkar, AGP for Respondent no.1
 Mr. N. W.Almelkar, Adv.for Respondent no.2}

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

Court's or Judge's order

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

DATED : 11th September, 2015.

Heard.

Since the issue involved in these petitions is identical and the petitioners in all the Writ Petitions have challenged their reversion from the post of Junior-Assistant-cum-Typist to the post of Peon, they are heard together and are decided by this common order.

The petitioners were working as Peons in the respective Zilla Parishads when they were promoted to the post of Junior-Assistant-cum-Typist, between the period from 2005 to 2012. In the promotion orders of the petitioners, except the petitioners in Writ Petition Nos. 787/2015 and 788/2015, a condition was stipulated, that made it necessary for the petitioners to pass Typewriting examination. The condition in the promotion order mentioned that those promotees that had not submitted the Typewriting Examination certificate at the time of promotion, should submit the

same within a period of one year from their promotion. Most of the employees that were promoted to the post of Junior-Assistant-cum-Typist, passed the Typewriting Examination after their promotion and submitted the necessary certificate to the respective Zilla Parishads. The petitioners have, however, not passed the Typewriting Examination and hence they were not able to submit the requisite Typewriting certificate. Since the petitioners were not able to produce the necessary certificate despite opportunity, the respective Zilla Parishads reverted the petitioners on the post of Peon. The orders of the reversion of the petitioners on the post of Peon have been challenged by the petitioners in the instant petitions.

Shri V.D. Raut, the learned counsel for the petitioners submitted that it was not necessary for the petitioners to pass the Typewriting Examination as they were not nominated on the post of Junior-Assistant-cum-Typist and were promoted to the post. It is submitted that the Maharashtra Zilla Parishads District Services Recruitment Rules clearly provide that the passing of Typewriting Examination would be necessary while nominating a junior-Assistant-cum-Typist, but the said certificate is not required when an employee is promoted to the said post. It is stated that since the petitioners were promoted to the post of Junior-Assistant-cum-Typist, they were not required to pass the Typewriting examination. It is submitted that if this Court is of the view that it was necessary for the petitioners to have passed the examination and secure the certificate, this Court may grant some more time to

the petitioners to pass the examination.

The learned counsel for the respondents-Zilla Parishads vehemently opposed the prayer made in the petitions and submitted that the reversion of the petitioners cannot be said to be bad in law. It is submitted that in view of the Government Resolutions dated 15.4.1991 and 29.6.1993, it is incumbent for an employee holding the post of Junior Assistant-cum-Clerk to pass the typewriting examination. It is submitted that in the absence of the knowledge of typing, the petitioners would not be in a position to effectively serve the Zilla Parishad. It is stated that in this digital age, most of the work is done on the computers and typewriters and the petitioners cannot be permitted to state that they are not required to take the typing lessons and secure the necessary certificate while holding the post. It is submitted that most of the Junior Assistants that were promoted on the said post, have produced the typewriting certificate after their promotion and they were continued on the said post. It is stated that a couple of Junior Assistant-Cum-Typists were reverted on the post of Peon along with the petitioners for not producing the typewriting examination certificate but after their reversion they have produced the certificate and they are again promoted on the post of Junior Assistants. It is submitted that the petitioners could also secure the requisite certificate and seek their promotion on the post of Junior Assistant-cum -Typist. It is submitted that except in the case of petitioners in Writ Petition Nos. 787/2015 and 788/2015, there was a condition in the

promotion order of all other petitioners, of passing the Typewriting Examination within a period of one year from their promotion. It is submitted that the petitioners were well aware that they were required to pass the Typewriting examination after their promotion. It is submitted that the Government Circulars dated 15.4.1991 and 29.6.1993 were also known to the petitioners and the petitioners cannot feign ignorance of law. It is submitted that the petitioners are estopped from challenging the condition in the promotion order as being bad in law, as the petitioners have accepted the promotion orders with the said condition, without any demur.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the petition and the affidavit-in-reply filed on behalf of the respective Zilla Parishads, it appears that the relief sought by the petitioners cannot be granted. The petitioners were working on the posts of Peon when they were promoted to the post of Junior-Assistant-Cum-Typist during the years 2005 to 2012. The Government Circulars dated 15.4.1991 and 29.6.1993 clearly provide that it would be necessary for the Junior Assistant-cum-Typist or a Clerk to possess the Typewriting certificate. As rightly submitted on behalf of the respondents, a Junior-Assistant-cum-Typist would be of no use to an employer if the Junior Assistant-cum-Typist does not have the knowledge of typing, whatsoever. All the petitioners, except the two, were clearly made aware by the term in the appointment order that they were required to pass the

necessary Typewriting Examination within a period of one year from the date of their promotion. None of the petitioners passed the Typewriting Certificate Examination within a period of one year. The respondent-Zilla Parishads, time and again, informed the petitioners that they were required to pass the Typewriting Examination, but the petitioners did not pass the same and submit the requisite certificate. It is admitted by the petitioners that a notice was served on the petitioners on 5.8.2013 asking them to produce the Typewriting certificate within a short time else their services would be terminated. The petitioners could have taken the Typing lessons even after their promotion, as was done by several other employees, that were promoted on the post of Junior Assistant-cum-Typist. Considerable time was granted to the petitioners even after 5.8.2013 to pass the Typing Examination. The petitioners were reverted in January 2015 i.e. nearly 1½ years from the date of issuance of the admitted notice dated 5.8.2013. Some of the employees, like the petitioners, that were reverted, submitted the requisite typewriting certificate after their reversion and they were, again, promoted on the post of Junior-Assistant-cum-Typist. The petitioners cannot be heard to say that it was not necessary for them to pass the typewriting examination as the Zilla Parishad District Services Recruitment Rules do not necessitate the passing of Typewriting examination for the promotees, though it is necessary for the nominated Junior Assistant-cum-Typist to pass the examination. We find that the petitioners are estopped from challenging either the Government

Circulars or the condition in the promotion order. The petitioners had accepted the promotion order with the said condition with open eyes. The petitioners had not challenged the condition in their appointment order immediately after they were promoted. A lame attempt is made to challenge the condition in the promotion order as also the Government Circulars after the petitioners are reverted. It is also necessary to note that after the receipt of the notice from the respective Zilla Parishads, the petitioners had sought for time to produce the certificates. At the relevant time, the petitioners had not challenged the notices issued by the respective Zilla Parishads being bad in law and contrary to the Rules of the Zilla Parishad. As rightly submitted on behalf of the respondents, the services of the petitioners were of no significant use to the Zilla Parishads in the absence of knowledge about Typing. A Junior-Assistant-cum-Typist is expected to have knowledge about Typing. In the absence of knowledge of Typing it is difficult for a Junior Assistant-cum-Typist to do the day to day work. In the circumstances of the case, we do not find any illegality in the action of the Respondent-Zilla Parishads reverting the petitioners to the post of Peon. The learned counsel for Zilla Parishads fairly state that if the petitioners are able to secure the Typewriting certificate in future, the Zilla Parishads would consider promoting them on the post of Junior Assistant-Cum-Typist, again.

For the reasons aforesaid, we dismiss the petitions. No costs.

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