

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

WRIT PETITION NO.2855 OF 2014

Ku.Sunita d/o Jagannathrao Raut ..vs.. The Executive Officer (Sec), Z.P.Nagur and ors.

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

Court's or Judge's orders

Mr.S.Z.Sonbhadre, Adv. for the petitioner.
Mr.N.S.Rao, AGP for respondent no.1.
Mr.P.C.Marpakwar, Adv. for respondent no.2.
Mr.T.Kidilay, Adv. for respondent no.3.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : SEPTEMBER 14, 2015.

1. Heard Advocate S.Z.Sobhadre for the petitioner, Advocate Marpakwar for respondent no.2, Advocate Kidilay for respondent no.3 and learned AGP for respondent no.1. Perused the impugned order dated 30th of November, 2013.

2. The order has been passed after extending opportunity of hearing to all four employees whose proposals were earlier rejected. That order was set aside by this Court on 14th of October, 2013 while deciding Writ Petition No.4780 of 2013.

3. By impugned order, the approval has been granted to appointment of other three persons but rejection of approval to petitioner has been maintained. Reasons given are, there is inconsistency about date of appointment and also when advertisement was issued in relation to vacancy for N.T.category, a candidate belonging to O.B.C. (petitioner) came to be selected and appointed.

4. Advocate Sonbhadre submits that if candidate belonging to N.T.category is not available, provisions of M.E.P.S.Rules, 1981 permit management to fill in post even through O.B.C.Category candidate. He further points out that inadvertent error committed by clerk in relation to date of recruitment while preparing service-book has explained by Headmaster and still that has not been properly evaluated.

5. Learned AGP supports the impugned order. Advocate Marpakwar as also Adv. Kidilay rely upon the facts. They submit that appointment has been made in accordance with law after following proper procedure.

6. After hearing respective counsel we find that the issue pertains to period from 1st of July, 2003 to 22nd of April, 2005 only. The publication of a proper advertisement of holding of interviews is not in dispute. Respondent no.1 has not found that petitioner did not appear for that interview and she did not participate in selection process. There is no finding that she was not on duty for period from 1st of July, 2003 till 4th of August, 2003. Similarly, we find that as per communication dated 11th of February, 2013, two standards i.e. 6th and 7th, which were not receiving grant-in-aid till 2010-2011 started receiving 80% grant in that year and 100% grant in next academic year i.e. 2011-2012. As such, the drawl of salary of petitioner for period from 1st of July, 2003 to 22nd of April, 2005 appears to be not proper. However, then petitioner cannot be blamed for it.

7. In this situation, the reasons recorded by respondent no.1 for rejecting grant of approval to petitioner are unsustainable. The impugned order is quashed and set aside. Respondent no.1 shall reconsider the question of grant of approval to petitioner ignoring these grounds . The decision shall be taken within eight weeks from today.

Petition is thus partly allowed and disposed of.

No costs.

JUDGE

JUDGE

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