

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

WRIT PETITION NO. 1097 OF 2014

(Ramkumar s/o Narhar Kadu vs. State of Maharashtra thr. Secretary, Department of Technical Education
& 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.
MARCH 09, 2015.**

Heard Shri Deshpande, learned counsel for the petitioner, Shri Fulzele, learned Additional GP for respondent Nos. 1 to 3 and Shri Patil, learned counsel for respondent Nos. 4 & 5.

The petitioner, working as a Senior Clerk, seeks promotion to the post of Superintendent. The submission is, due to less strength of the students, post of Head Clerk earlier admissible and in existence, is now not available, hence the normal channel of promotion i.e. from Senior Clerk to Head Clerk and from Head Clerk to Superintendent cannot be now adhered to.

Shri Deshpande, learned counsel submits that as this challenge is contingent upon the strength of the students, normally the promotion from the cadre of Senior Clerk to Superintendent is also allowed. He places reliance upon the case of one Shri B.B. Shingne, pleaded in para 12 of the petition.

The learned Additional GP submits that as the

petitioner is not in next below cadre as per Schedule B of Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, promotion cannot be legally asked for.

The learned counsel for respondent Nos. 4 & 5 is also opposing the petition.

This Court has on 27.02.2014 permitted recruitment to proceed in terms of advertisement dated 12.02.2014 and restrained the management from issuing any appointment order. However, from the arguments of Shri Patil, learned counsel, it appears that that advertisement itself was given up and no recruitment process has been conducted in pursuance thereof. The promotion given to Shri Shingne from the post of Senior Clerk to the post of Superintendent is from the very same School in which the petitioner is presently working.

In this situation, we find that the interests of justice can be met with by permitting the petitioner an opportunity to submit a representation in detail pointing out such instances in the past where the promotional channel has been appropriately modified and promotions from a cadre below the next below cadre have been allowed because of fluctuations in the strength of the students. If such a representation is made by the petitioner within a period of four weeks from today, Respondent Nos. 4 & 5 - management as also Respondent No. 3 – Joint Director shall take suitable

decision upon it within a period of next eight weeks.

With these directions and keeping all rival contentions open for consideration, we dispose of the present petition. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

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