

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

WRIT PETITION No.3338 of 2014

(Manohar s/o. Ramkrushna Arbat .vs. Shri Shivaji Education Society, Amravati and Anr.)

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

Court's or Judge's orders

Mr.C.A.Joshi, Adv. for the petitioner.
Mr.Abhay Sambre, Adv. for respondent nos.1 & 2.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 11.3.2015.

Heard for sometime.

Mr.C.A.Joshi, learned Counsel for the petitioner submits that the petitioner's grievance will be redressed even if his entitlement to the post of Librarian and wages is considered from the date on which the petition came to be filed before this Court.

Mr.C.A.Joshi, learned Counsel submits that, in the year 1988, when the respondents issued advertisement, it was for the post of Librarian and the petitioner was also selected for that post. However, while giving him appointment order, post of Assistant Librarian was mentioned. According to the learned Counsel, the petitioner thereafter made number of representations and sought correction. However, he did not have courage to approach this Court as the employment was a private employer.

Mr.Abhay Sambre, learned Counsel submits that

the petitioner voluntarily accepted to work as an Assistant Librarian and accordingly, that order was given to him. He worked on that post for almost 24 years till his superannuation and has filed petition at the fag end of his service.

The learned Counsel further contends that, having worked as an Assistant Librarian, the petitioner cannot expect the wages or the service condition of a Librarian. According to Mr.C.A.Joshi, learned Counsel for the petitioner, there was no Librarian and hence, the petitioner, though designated as an Assistant Librarian, has performed duties as a Librarian. He states that, in this situation, the petitioner must be paid wages for the work done by him.

It is not in dispute that the petitioner has reached the age of superannuation on 31.12.2014. The present petition has been filed on 21.4.2014.

In this situation, prima facie, it is seen that the post of Librarian was available in respondent no.2/College. The advertisement was, therefore, published and the petitioner was interviewed accordingly. However, the question will be whether that post was available when the present petition was filed and when the petitioner retired. According to Mr.C.A.Joshi, learned Counsel, all his representations show availability of work load and therefore, requirement of the post. Mr.Abhay Sambre, learned Counsel disputes this.

We are not in a position to resolve any disputed question. We, however, grant the petitioner leave to make appropriate representation to respondent no.2/College

pointing out all these facts and also pointing out availability of work load. The petitioner may also point out that, in absence of any Librarian, though he was designated as an Assistant Librarian, in fact, he has worked as a Librarian. If such representation is made within a period of four weeks from today, respondent no.2 shall consider whether to designate the petitioner as a Librarian from 21.4.2014. If such a decision is taken, consequential benefits/arrears shall be released to the petitioner within next three months.

Leaving all rival contentions open and without recording any finding on the disputed facts, with the above directions, we dispose of the Writ Petition. No costs.

JUDGE

JUDGE