

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

WRIT PETITION NO.6133/2014.

Sunil Fakira Raut

-VERSUS-

The State of Maharashtra and others.

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 &
S.B.SHUKRE, JJ.**

DATE : APRIL 07, 2015.

Heard Shri S.I. Jagirdar, learned Counsel
for the petitioner, Shri A.M. Deshpande, learned A.G.P.
for respondent no.1 and Mrs. B.H. Dangre, learned
Counsel for respondent no.2.

2. Petitioner came to be promoted on
28.02.2013 as Assistant Superintendent on the
establishment of Principal District and Sessions Court,
Washim in a newly created post. Present Writ Petition
has been filed on 24.09.2014 with prayer that his
representation at Annexure-I should be allowed and he

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should be added in Akola Judicial district by maintaining his seniority in the gradation list of that district. Representation at Annexure-I is to set aside his promotion and posting in newly created Washim district. This representation on administrative side has been rejected and that rejection has been communicated to the petitioner on 15.07.2014.

3. By placing reliance upon provisions of Rule 580 of the Civil Manual, effort is to urge that vacancies were available in Akola district and hence, petitioner needed to be promoted in that district. It is pointed out that in August, 2012 a selection procedure was conducted, but, nobody was promoted. Petitioner thereafter received the impugned order dated 28.02.2013. Learned Counsel submits that injustice has been done to the petitioner by promoting him in Washim district, though vacancies were available at Akola district. It is further urged that the decision to bifurcate service by maintaining status-quo, qua employees, is again arbitrary. When option were called for, petitioner did not opt for continuing at Washim or for going to Washim. It is urged that petitioner worked for about 27 years at Akola, and

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therefore, should have been allowed to continue at Akola only. Support is being taken from a judgment reported at 2007 (6) Mh.L.J. 426 (Ramesh Samhari More .vrs. Registrar, District Court, Solapur and others).

4. Learned A.G.P. as also Mrs. Dangre, learned counsel appearing for respective respondents are opposing the petition. They submit that non promotion is not the grievance made in the petition. Similarly, Rule 580 does not oblige the employer to fill in vacancies as soon as it becomes available. Though options were called for, decision to bifurcate services were taken in the best interest and earlier decision taken while bifurcating Bhandara and Gondia has been adhered to.

5. The petitioner has not challenged the promotions given earlier. There is no challenge to alleged non promotion in 2012. Infact petitioner has not pointed out that any selection process was carried out in the year 2013 before issuing the impugned order. It is therefore, obvious that on the strength of process carried out in August, 2012 order dated 28.02.2013 came to be issued to the petitioner.

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Petitioner has obeyed that order.

6. The Division Bench judgment on which reliance has been placed and paragraph no.9 which is pressed into service, does not help the petitioner in the present case. There the decision of selection committee to bar the candidates if they had failed on three occasions for departmental examination was in issue. Division Bench found that Rule 580 do not contain any such bar. It is also found that selection committee was not conferred with any power to take such administrative decision.

7. Petitioner before this Court is not in a position to point out his entitlement or right to be transferred at Akola district or then right to promotion in Akola district. Need of or logic behind decision to maintain status quo explained by respondent nos. 2 and 3 in reply affidavit is not in dispute before us. On said date, petitioner was working in Washim district.

8. In this situation, we find no case made out warranting interference. Writ Petition is, therefore, rejected. No costs.

JUDGE

JUDGE

Rgd.