

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4737 /2015

(Shri Dadaji Mahadeo Beharkar vs. Deputy Director of Education, Nagpur and another)

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

Court's or Judge's order

Shri PN. Shende, Advocate for petitioner

Shri N.S. Khubalkar, Asst.Govt. Pleader for respondent no.1

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

DATED : 9th October, 2015.

Heard.

By this petition, the petitioner impugns the order of the respondent no.1-Deputy Director of Education, Nagpur Division, Nagpur, dated 22nd April 2014, rejecting the representation made by the petitioner and holding that the petitioner was rightly granted the Selection Grade from 1st April, 2004.

According to the petitioner, the respondent no.1 was not justified in rejecting the representation/appeal of the petitioner. It is stated that the petitioner had secured the requisite training the year 1997 as could be reflected from the certificate issued by the Zilla Shikshan Va Prashikshan Sanstha, Chandrapur. It is stated that

the respondent no.1 failed to consider the said certificate and held that the petitioner was rightly granted the Selection Grade from the year 2004, as he had completed 55-years of age in the year 2003 and was exempted from appearing at the departmental examination. According to the petitioner, since the petitioner has secured the departmental training certificate in the year 1997, the impugned order is liable to be set aside.

Shri N.S. Khubalkar, the learned Assistant Government Pleader appearing on behalf of the respondent no.1, supported the order of the respondent no.1 and submitted that the petitioner is blowing hot and cold, inasmuch as the petitioner had clearly stated before the respondent no.1, as could be reflected from the impugned order, that the petitioner was not able to secure departmental training as he was not granted an opportunity to do so. It is stated that in view of the Government Resolution dated 20th July, 2004 the petitioner was exempted from departmental training after he completed 55-years of age and hence the respondents had rightly granted the Selection Grade to the petitioner from the year 2004. It is stated that the petitioner had not secured the departmental training in 1998 and the said fact could be reflected from the certificate annexed by the petitioner, at Page 14-A of the Writ Petition. It is stated that the petitioner had fairly admitted before

the respondent no.1 that the petitioner was not permitted to go for departmental training and the State Government is to be blamed for that. It is stated that the submissions made on behalf of the petitioners are recorded by the respondent no.1.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the respondent no.1 was justified in rejecting the representation of the petitioner, seeking the Selection Grade from 1998. Though the petitioner had completed 24-years of service in the year 1998, the petitioner was not entitled to Selection Grade as the petitioner did not satisfy the third condition of possessing departmental training certificate. The petitioner had secured the departmental training only in the year 2004. At the relevant time in the year 2004, the petitioner was also otherwise eligible to secure the Selection Grade as he had completed 55-years of age and as per the Government Resolution dated 20th July 2004, the condition for departmental training stood relaxed. Though the entire order is based on the submission made on behalf of the petitioner that the petitioner was not granted an opportunity by the respondents to secure the departmental training, there is no averment in the Writ Petition that the order falsely mentions that the petitioner was not provided an opportunity to secure the departmental training. In fact, the petitioner had

canvassed before the respondent no.1 that the petitioner is not at fault in not securing the departmental training till 2003-04, in view of the fault on the part of the respondents. On a reading of the order, we find that the petitioner was rightly not granted Selection Grade from 1998 as he had not secured the departmental training and had not fulfilled one of the conditions for grant of Selection Grade. Since the petitioner had completed 55-years of age in the year 2003, the petitioner was rightly granted the Selection Grade from the year 2004. We do not find any illegality with the order of the respondent no.1, so as to interfere with the same in exercise of the writ jurisdiction.

The Writ Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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