

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.3643 of 2015

8 WRIT PETITION NO. 3643 OF 2015

KAZI MANSUR AHMAD MASUD AHMAD
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner :Mr.V.G.Sakolkar h/f Mr. Murge Estling S
AGP for Respondent State: Mr. A.V.Deshmukh

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: February 08, 2016

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PER COURT :-

1. This Writ Petition takes exception to the judgment and order dated 1st of December, 2014, passed in Original Application No.125/2014, by the Maharashtra Administrative Tribunal, Bench at Aurangabad.

2. Learned Counsel appearing for the petitioner submits that the petitioner has rendered services till filing of this petition, and even thereafter, till the notices were issued to the respondents by this Court. He further submits that even the respondents, realizing the services rendered by the petitioner, recommended the case of the petitioner for absorption, however, the said recommendation has not been favourably considered by the authorities.

3. It is submitted that this Court in Writ Petition No.2105/2013, filed by the petitioner, had issued directions to the

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respondents to consider the representation tendered by the petitioner on its own merits, and even then, mechanically said representation has been decided. Therefore, he submits that the petition deserves favourable consideration.

4. On the other hand, learned A.G.P. appearing for the respondent Nos. 1 to 5, relying upon the averments made in the affidavit in reply made on behalf of respondent nos. 1 to 5, submits that, the petitioner was working as a Part Time Clerk-cum-Typist with respondent no.5. At no point of time, the post was advertised, or the selection was in accordance with the relevant Rules / Procedure. He submits that if the prayer of the petitioner is considered, it would amount to giving back door entry to the petitioner in the services of the respondent, which is public employment. Therefore, he submits that the petition may be rejected.

5. We have heard learned Counsel appearing for the petitioner. Perused the pleadings in the petition, annexures thereto and the reasons assigned by the Maharashtra Administrative Tribunal in the impugned judgment. Though the learned Counsel appearing for the petitioner, during the course of hearing, submitted that, the petitioner has rendered services on Part Time basis as a Clerk, to that effect, no any documents were placed before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal, while narrating the facts of

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the case in paragraph No.1 of the impugned judgment has observed that the Tehsildar, Osmanabad, vide order dated 26th September, 1998, posted the petitioner in the Office of the Dy.R.T.O., Osmanabad, as a Clerk / Part time worker, however, the petitioner was continued as a Part Time worker till 30th October, 2002. It further appears that on 3rd February, 2005, the petitioner herein made representation to the R.T.O., Osmanabad, however, there is no record which would un-disputedly indicate that the petitioner did render services, though as a Part Time worker till the filing of this petition.

In that view of the matter, since petitioner was appointed as a Part Time worker till 30th October, 2002, the Maharashtra Administrative Tribunal, after adverting to settled principles of law, stated in various pronouncements of the Supreme Court, has taken a correct view. We do not find any reason to interfere in the impugned judgment and order.

Hence, the petition stands rejected.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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