

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.5610 OF 2003

Shivaji S/o Laxmanrao Taktode and another Vs. The State of Maharashtra and others.

WITH

WRIT PETITION NO.354 OF 2004.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.V.P.Golewar, advocate for the petitioners.
Mr.B.A.Shinde, A.G.P. for the State.
Mr.H.K.Munde, advocate for Respondent No.4.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 01.10.2016.

PER COURT :

1. Heard.
2. Mr.Golewar, learned counsel for the petitioners submits that the petitioners were working as Mustering Assistants which was a dying cadre. The Government took a policy decision that all the Mustering Assistants who were working up to 1993 should be absorbed with the Government or the Zilla Parishad. Pursuant to the said policy decision, the Collector issued order directing Respondent Zilla Parishad to appoint petitioners as Multipurpose Health Workers. The Respondent Zilla Parishad did not comply with the said order, however, appointed the petitioners on Class IV

posts which is illegal and contrary to the appointment orders issued by the Collector. The petitioners are required to be absorbed on Class III posts.

3. Mr.Munde, learned counsel for Respondent Zilla Parishad submits that the Collector could not have issued appointment orders to the petitioners with regard to the appointments to be made on the posts of Zilla Parishad. At the time when the Collector had issued the said orders, no posts of Multipurpose Health Workers were vacant with the Zilla Parishad. It is only in the year 2015, some posts of Multipurpose Health Workers have become vacant. The petitioners are paid regularly commensurate with the posts they are holding.

4. We have considered the submissions. As per the policy of the Government, the Mustering Assistants were to be absorbed in Class III and/or Class IV according to their eligibility and availability of vacancy and so also considering seniority. There is nothing before us to show that the petitioners were senior and that junior to the petitioners were absorbed in Class III posts so also there is nothing on record about the qualifications and eligibility of the petitioners to be absorbed in Class III posts.

5. It is stated by the Respondent Zilla Parishad that at the relevant time, Class III posts were not vacant with the said Zilla Parishad, as such the petitioners were absorbed in Class IV posts.

Now in the year 2015, Class III posts i.e. of Multipurpose Health Workers are vacant.

6. In light of the above, the Respondent No.4 Zilla Parishad shall consider to absorb those petitioners who are in service with it on Class III posts immediately in case the petitioners are otherwise qualified and eligible for the said posts.

7. The Writ Petitions are accordingly disposed of. Rule discharged. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.01.10.2016.
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