

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.5982 OF 2014

Ashok s/o Sukha Khadse,  
age: 46 years, Occ: Service,  
R/o Bhaldi (Bk.),  
Tq. & District Jalgaon.

Petitioner

Versus

01 The State of Maharashtra,  
through the Secretary,  
Rural Development and  
Water Conservation Department,  
Mantralaya, Mumbai 400 032.

02 The Divisional Commissioner,  
Nashik Division, Nashik.

03 The Collector, Jalgaon,  
District Jalgaon.

04 The Chief Executive Officer,  
Zilla Parishad, Jalgaon,  
District Jalgaon.

05 Vasudeo Tulshiram Mahajan,  
age: major, Occ: service,  
R/o Ayurvedic Dispensary  
Shirasmani, Tq. Parola,  
District Jalgaon.

06 Ramkrishna Pralhad Mahajan,  
age: major, Occ: service,  
R/o Primary Health Center,  
Mhasawad,  
Tq. & District Jalgaon.

Respondents

Mr.A.V.Hon, advocate for the petitioner.  
Mr.A.R.Kale, A.G.P. for Respondents No.1 to 3.  
Mr.Vijay Sharma, advocate for Respondent No.4.  
Respondents No.5 and 6 are served.

**CORAM : R.M.BORDE &****K.L.WADANE, JJ.****Reserved on : 08<sup>th</sup> June, 2016****Pronounced on : 2<sup>nd</sup> August, 2016.****JUDGMENT (Per R.M.Borde, J.):**

1            Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2            Petitioner, who is an employee of the Village Panchayat Bhaldi (Bk.), Tq. & District Jalgaon, is claiming his absorption in the services of Zilla Parishad in view of the provisions of Maharashtra Zilla Parishad and Panchayat Samiti (Recruitment) Rules, 1967.

3            The petitioner is employed in Village Panchayat Bhaldi (Bk.), Tq. and District Jalgaon, as a water supply worker since 1992. According to the petitioner, his service record is clean and he does fulfill requirements for absorption in the services of Zilla Parishad from amongst quota of 10 per cent prescribed for village panchayat employees. The petitioner states that in the year 2007, he was placed at Sr.No.320 in the seniority list maintained by the Zilla Parishad for the purposes of absorption of village panchayat employees, whereas, his name appeared at Sr.No.184 in the list published in the year 2008. In the year 2009, his name was placed in the seniority list at Sr.No.187, whereas, in the year 2011, his serial number in the seniority list was 114. Similarly, in the years 2012 and 2013, his name appeared in the seniority list of employees of village panchayat maintained by the Zilla Parishad, at Sr.No.91 and 68, respectively. Name of the petitioner disappeared suddenly in the year 2014 and as such, he has an apprehension that he would not be considered eligible for absorption in Zilla Parishad services.

4           The petitioner claims that Respondents No.5 and 6, who are junior to him, have already been absorbed in Zilla Parishad services by bypassing seniority claim of the petitioner, on 09.04.2008 and 23.01.2009. The petitioner claims his entitlement from reserved category of physically handicapped employees, so also petitioner belongs to Other Backward Class category and as such, has a preferential claim, being an employee from reserved category.

5           The petitioner states that Respondents No.5 and 6 are also from amongst the category of physically handicapped persons and are much junior to him. The placement of petitioner in the seniority list of the year 2007 is at Sr.No.320 and in the year 2008 at Sr.No.184. The change is effected after he tendered his disability certificate. So far as Respondents No.5 and 6 are concerned, they are placed at Sr.Nos.397 and 499 in the seniority list maintained in the year 2007. It is, thus, clear that petitioner is senior to Respondents No.5 and 6.

6           An affidavit-in-reply has been presented on behalf of Respondents wherein it has been stated that since petitioner has completed 45 years of age in the year 2014, his name has been deleted from the seniority list. As per Rules framed by the Zilla Parishad, an employee is entitled to be promoted if he holds requisite qualification and is below 45 years of age. Since petitioner has crossed prescribed age limit, his name was struck off from the seniority list.

7           The Respondents have not given any justifiable reason for bypassing claim of the petitioner in the year 2008 when claim of Respondents No.5 and 6 was favourably considered. Admittedly, petitioner is senior to Respondents No.5 and 6 and all are from the category of physically handicapped employees. The petitioner claims that he has tendered disability certificate in the year 2006 and as such, in the seniority list of the year 2008, he has been placed at Sr.No.184, though

his placement in the seniority list of the year 2007 was at Sr.No.320. The claim of Respondents No.5 and 6 was considered in the year 2008 and at the relevant time, petitioner was surely shown to be senior in the list of those promoted employees. It is, thus, clear that petitioner's seniority claim has been bypassed without there being any justifiable reason. There is no explanation forthcoming as to why petitioner has not been considered.

8                Considering the facts as recorded above, we deem it appropriate to direct the Respondents to absorb petitioner in the services of Zilla Parishad, Jalgaon, in view of provisions of Maharashtra Zilla Parishad and Panchayat Samiti (Recruitment) Rules, 1967, if necessary, by relaxing the age criteria.

9                Rule is accordingly made absolute. There shall be no order as to costs.

**K.L.WADANE**  
**JUDGE**

**R.M.BORDE**  
**JUDGE**