

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.6621/2015

Bharat Premchand Chaudhari.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondents...

.....

Shri S.P. Brahme, Advocate for petitioner.
Shri B.A. Shinde, AGP for respondent nos.1 to 3.
Shri M.M. Bhokariker, Advocate for respondent nos.4 & 5.
SHri Deepak S. Joshi, Advocate for respondent no.6.

.....

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

DATE: 24.10.2016

ORDER :

1] Learned counsel for the petitioner submits that the petitioner was appointed as a Peon on 11.12.2007. His appointment was also approved. The appointment of the petitioner was on compassionate ground. In the year 2013, a vacancy arose of the post of Clerk. The

- 2 -

petitioner made representation to consider him for the post of Clerk as by then the petitioner possessed the necessary qualification to be appointed as a Clerk. The same was not considered. However, the respondent no.6 was appointed as a Clerk on 1.6.2013. The learned counsel submits that the said appointment is illegal. AT the relevant time, there was ban on recruitment. The respondent no.6 could not have been appointed. The claim of the petitioner for being considered for the post of Clerk is required to be considered. According to the learned counsel, even the petitioner had filed Writ Petition No.9652/2014. This Court disposed of the said writ petition under order dated 30.3.2015 thereby directing the respondents therein to consider the claim of the petitioner as per relevant Rules and if the vacancy is available. The learned counsel submits that the petitioner had made representation, however, the same is not considered.

2] Learned counsel for the respondent nos.4 & 5 submits that the petitioner was appointed as a Peon on compassionate ground. The respondent no.6 is appointed by following due procedure of law on the available vacant

- 3 -

post and the approval is also granted to the appointment of the respondent no.6.

3] The learned counsel for the respondent no.6 also submits that by following due selection process, the respondent no.6 has been selected and the Education Officer has granted approval to his appointment.

4] We have also heard the learned AGP.

5] The petitioner had filed earlier Writ Petition No. 9652/2014. At that time, the respondent no.6 was already appointed. This Court in the said writ petition did not set aside the appointment of the respondent no.6 nor any directions were given with regards to the appointment of the respondent no.6. This Court only directed the respondents to consider the claim of the petitioner as per relevant Rules if the vacancy is available and if the Rules permit. The challenge to the appointment of the respondent no.6 if made in the earlier writ petition stands negatived and if is not made in the earlier writ petition, now cannot be allowed to challenge.

6] Considering the above, the relief as claimed with regards to the approval to the appointment of the respondent no.6 cannot be considered. The order passed

- 4 -

by this Court in the earlier writ petition is self-explanatory and the same would be considered by the authorities. Present writ petition is accordingly disposed of. NO costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)