

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9850 OF 2015

Chagan Rameshwar Dandge,
Age 29 years, Occ.Nil,
r/o. Wajar Bk.,
Tq. Jintoor, Dist. Parbhani ..Petitioner

Vs.

1. The State of Maharashtra,
Through Secretary,
Rural Development Dept.,
Mantralaya, Mumbai
2. The Collector,
Hingoli, Dist. Hingoli,
3. Chief Executive Officer,
Zilla Parishad, Hingoli,
Dist. Hingoli ..Respondents

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Mr.H.K.Mundhe, advocate for petitioner

Mr.A.G.Magre, AGP for respondent nos.1 and 2

Mr.B.A.Shinde, Advocate for respondent no.3

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

**RESERVED ON : JULY 07, 2016
PRONOUNCED ON : AUGUST 05, 2016**

JUDGMENT (PER SANGITRAO S. PATIL, J) :

Heard.

2. Rule. Rule made returnable forthwith.
With consent of the parties, heard finally.

3. The petitioner has challenged the vires of the order dated 14.09.2015 issued by respondent no.3 – Chief Executive Officer, Zilla Parishad, Hingoli, whereby his services as Junior Accounts Officer came to be terminated from the date of the said order.

4. In response to an advertisement dated 22.08.2014, the petitioner applied for the post of Junior Accounts Officer since he was possessing Bachelor's Degree in Arts and also had experience of five years to work as an Accounts Clerk in a Co-operative Credit Society. After subjecting the petitioner to requisite tests, respondent no.3 selected and appointed him as per the order dated 09.12.2014 to work as a Junior Accounts Officer in Panchayat Samiti at Sengaon. Accordingly, he

joined the said post and started working as a Junior Accounts Officer.

5. One Gajanan Tukaram Chavan sent a complaint against the petitioner to respondent no.3 alleging that the petitioner had produced a bogus experience certificate. Accordingly, a Committee headed by respondent no.2 – Collector and comprising of seven members including respondent no.3, came to be constituted to enquire into the allegations made against the petitioner. The petitioner was extended an opportunity of hearing. His statement was recorded. One Shankar Khushalrao Giri, who had issued the experience certificate to the petitioner, was examined before the Committee.

6. After considering the material that was produced during the enquiry, the Enquiry Committee in the meeting dated 31.07.2015, held that the

petitioner did not possess the requisite experience of five years after obtaining the Bachelor's Degree in Arts. The Committee further found that the experience certificate produced by the petitioner was not believable. In the result, the Committee recommended that the appointment of the petitioner to the post of Junior Accounts Officer should be cancelled. Accordingly, respondent no.3 passed the impugned order dated 14.09.2015 and cancelled appointment of the petitioner as Junior Accounts Officer with immediate effect.

7. The learned Counsel for the petitioner submits that there was no mention in the advertisement that the candidate must have practical experience in accounts and auditing work in any Government office or business firm or local authority for a continuous period of five years after completing the graduation. Therefore,

respondent no.3 was not justified in cancelling appointment of the petitioner on the ground that he did not gain the requisite experience of five years after completion of his graduation. He further submits that the petitioner was prosecuting his studies for B.Sc. and M.Sc. in a college at Ashti and simultaneously working with Dashnam Urban Co-operative Credit Society Ltd., Parbhani as an Accounts Clerk. The petitioner was not regularly attending the lectures and practicals in the college which was at the distance of 65 k.m. from Parbhani. However, respondent no.3 wrongly disbelieved genuineness of the experience certificate produced by the petitioner and cancelled his appointment. He submits that the petitioner was holding requisite experience for a period of five years. His appointment has been wrongly cancelled by respondent no.3. He, therefore, prays that the impugned order dated 14.09.2015 issued by

respondent no.3 terminating services of the petitioner may be quashed and set aside and the petitioner may be directed to be reinstated.

8. On the other hand, the learned Counsel for respondent no.3 relying on the contents of the affidavit-in-reply filed on behalf of respondent no.3 and the documents produced on record, submits that the experience certificate produced by the petitioner itself is not genuine and believable. It was not possible for the petitioner to work as an Accounts Clerk with the above-mentioned Society at Parbhani and at the same time, attend the lectures/practicals for prosecuting his studies in the college at Ashti, which was at a distance of 65 kms. from the office of the Society, where he was allegedly working. He further submits that the Circular dated 31.08.1972 issued by General Administration Department, Government of Maharashtra, specifically mentions that wherever

experience for a specified period has been mentioned as an essential qualification, the experience gained after acquiring the degree qualification prescribed, should alone be counted towards the specified period and the experience gained prior to acquiring the basic qualification should be ignored unless it is expressly provided in the recruitment rules.

9. The learned Counsel for respondent no.3 further submits that the basic qualification for the post of Junior Accounts Officer was graduation in any field plus practical experience in accounts and auditing work in any Government office or business firm or local authority for a continuous period of five years. The said experience ought to have been gained by the petitioner after completion of graduation. The petitioner has completed his graduation on 11.01.2011. Therefore, his alleged experience from 01.02.2009

to 15.09.2014 cannot be said to be the requisite experience for the post applied for. Moreover, his experience certificate itself is not believable. He submits that after extending the petitioner necessary opportunity of hearing, the Enquiry Committee headed by respondent no.2 and comprising of seven members including respondent no.3, found that the petitioner was not holding the requisite experience and decided to cancel his appointment. He supports the impugned order and prays that the Writ Petition may be dismissed.

10. It is well settled that experience in respect of any particular field should be an experience gained by the candidate upon possessing the basic qualification in that field. The experience gained by a candidate prior to acquiring the basic qualification would certainly be insufficient in its contents and would not satisfy the requirement of the requisite experience.

11. In the present case, as seen from the advertisement, for being eligible to apply for the post of Junior Accounts Officer, the candidate must possess a Degree of a recognised University and also practical experience of working in any Government office, business firm or local authority for a continuous period of five years. Preference was to be given to the candidates holding a Degree in Commerce with accounts and audit as special subjects, or obtaining First Class or Second Class in the degree. It was further mentioned that more preference would be given to the candidates having experience in accounts work in any Government office or a business firm or local authority. From these terms of the advertisement, it is clear that the experience of working for a continuous period of five years with any Government office, business firm or local authority and possessing graduation

from any recognised University were the essential qualifications.

12. The qualification for appointment to the post of Junior Accounts Officer by nomination of candidates, as given in Appendix XI(2)(1)(b)(ii), is as under :-

" possess a degree of a recognised University and have practical experience in Accounts and Auditing work in any Government office, or a business firm or a local authority for a continuous period of at least five years, preference being given to those who hold a degree in Commerce with Accountancy and Audit as special subjects or a 1st or 2nd class degree.

OR

Possess a post-graduate degree with Mathematics or Statistics or Accountancy and Audit as special subjects, preference being given to those with experience in Accounts work in any Government office or a business firm or a local authority."

13. The petitioner has produced the experience certificate dated 19.09.2014 issued by one Shankar

Khushalrao Giri, President, Dashnam Urban Co-operative Credit Society Ltd., Parbhani wherein, it is mentioned that the petitioner was working as an Accounts Clerk in the said society from 01.02.2009 to 15.09.2014. The genuineness of the said certificate was challenged by one Gajanan Tukaram Chavan by sending a complaint to respondent no.3 as well as the Committee headed by respondent no.2. The Enquiry Committee headed by respondent no.2 and comprising of seven members including respondent no.3, conducted thorough enquiry as to the experience certificate produced by the petitioner. The statements of the present petitioner, complainant – Gajanan Tukaram Chavan, President of the Society namely, Shankar Giri, who had issued the experience certificate, came to be recorded. The time table of the College of the petitioner also was considered. It was found that the time schedule of the college lectures and practicals was overlapping with the time during which, the

petitioner allegedly was serving with the Society. Considering all the factual aspects of the matter, the Enquiry Committee in its meeting dated 31.07.2015 concluded that the experience certificate produced by the petitioner was not genuine and believable.

14. The minutes of the meeting of the Enquiry Committee dated 31.07.2015 are produced on record. The findings of facts recorded in the said minutes of the meeting, cannot be gone into by this Court in exercise of its powers under Article 226 of the Constitution of India. Once it was held by the Enquiry Committee that the experience certificate produced by the petitioner was not genuine and believable, the petitioner cannot be said to have possessed the requisite qualification and particularly, in respect of the requisite practical experience for the post of Junior Accounts Officer. If that be so, respondent no.3 was fully justified

in cancelling appointment of the petitioner to the post of Junior Accounts Officer.

15. Though there is no specific mention in the advertisement that the requisite experience for the post should be gained by the candidate after obtaining the graduation degree, it is well settled that such experience is required to be gained by the candidate after obtaining the graduation degree. This fact is further strengthened by the clarification given in the Circular dated 31.08.1972 (Exhibit "N") issued by the General Administration Department, Government of Maharashtra. Even otherwise, when the experience certificate produced by the petitioner has been held to be not genuine and believable, the objection raised on behalf of the petitioner, that there was no specific mention in the advertisement that the requisite experience should have been gained by the candidate after obtaining the degree, loses significance.

16. In the above circumstances, we do not find any reason to interfere with the decision taken by the Enquiry Committee and the resultant impugned order dated 14.09.2015 passed by respondent no.3 cancelling the appointment of the petitioner for the post of Junior Accounts Clerk. The Writ Petition is devoid of any substance. Hence, the order :-

- (i) The Writ Petition is dismissed.
- (ii) Rule is accordingly discharged.
- (iii) No costs.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]