

dss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12298 OF 2015

The Collector, Satara Dist.
Satara

... Petitioner

Vs.

Shri. Yuvraj B. Khade

... Respondent

Mr. P.G. Sawant, AGP for the Petitioner.
Mr. Shriniwas Singh for the Respondent.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

DATE : JULY 25, 2016.

P. C.

1] The challenge in this petition is to the order dated 1 October 2015 made by the Maharashtra Administrative Tribunal (MAT), Mumbai allowing the respondent's Original Application No. 919 of 2014 and directing the petitioner to appoint the respondent as Clerk-cum-Typist, if, otherwise fit for appointment to such post.

2] Mr. P.G. Sawant, learned AGP for the petitioner, has submitted that all vacancies, as advertised on 10 February 2014, were duly filled and the respondent, who belongs to N.T. (D) Category was kept on wait list. One Mr. Kendre was appointed to the post reserved

for N.T. (D) Category on 11 June 2014. Though, the said Mr. Kendre resigned on 4 July 2014, the vacancy caused on account of such resignation, was a new vacancy and therefore, the respondent had not right to insist upon his appointment, to such a new vacancy. Mr. Sawant submitted that the wait list can operate only where selected candidates failed to join or where they are found to be unfit after scrutiny of original qualification certificate. Since, Mr. Kendre, in the present case, had already joined the post, there was no question of wait list operating any further. Mr. Sawant placed reliance upon the Government Resolution (G.R.) dated 19 October 2007 as amended by further G.R. dated 27 June 2008, in support of the proposition advanced.

3] Mr. Shirniwas Singh, learned counsel for the respondent, has defended the impugned order. He submitted that in terms of G.R. dated 27 June 2008, the wait list is to operate for a period of one year and there was absolutely no bar to appointment of wait listed candidates, where, vacancies arise during the period of one year. Mr. Singh pointed out that in the present case, vacancies had arisen within hardly fifteen days from the date of appointment of Shri. Kendre. Accordingly, Mr. Singh submitted that there is absolutely no case made out for interference with the impugned order.

4] We have perused the G.Rs. dated 19 October 2007 and 27 June 2008. The G.R. dated 27 June 2008 substitutes para '9' of the G.R. dated 19 October 2007, with paragraph '7' of the G.R. dated 27 June 2008. On perusal of the paragraph '7', we are satisfied that the view taken by the MAT can neither be said to be suffering from any jurisdictional error or perversity. The MAT has rightly noted that this paragraph does not prohibit filling-up vacancy, which has occasioned during the validity of wait list period, from out of candidates on such wait list.

5] In the present case, Mr. Kendre was appointed on 11 June 2014 and he resigned on 4 July 2014. Thus, the vacancy arose hardly within a period of about fifteen days, when, the wait list was to operate for one year. This is also not a case where fresh recruitment process had already commenced. The respondent, who belongs to the NT (D) Category, was first on the wait list and there is no dispute with regard to the eligibility of the respondent. In these circumstances, we are satisfied that the view taken by the MAT does not warrant any interference.

6] Assuming that there was any ambiguity in paragraph '7' of the G.R. dated 27 June 2008, the interpretation suggested by the MAT, cannot be said to be vitiated by any unreasonableness or perversity. The MAT has also relied upon the decision of the Madras

High Court in *Secretary, Tamil Nadu Public Service Commission Vs. The Secretary to Government Department of Personnel and Administrative Reforms and ors. - 2009 (5) M.L.J. 727*, wherein the Madras High Court is said to have taken a similar view.

7] For all the aforesaid reasons, we dismiss the present petition. There shall, however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]