

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPUR**WRIT PETITION NO. 1300 OF 2016.**

(Bandu Prabhakar Meshram .vs. The District Collector/President, District
Selection Committee, Gondia & others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. P.P. Thakare, Advocate for petitioner,
Mr. D.P. Thakare, Addl. G.P. for respondent no. 1,
Mr. A.Y. Kapgate, Advocate for respondent no. 2,
Mr. S.A. Marathe, Advocate for respondent no. 3.

CORAM : B.R. GAVAI & V.M. DESHPANDE, JJ.

DATED : AUGUST 22, 2016.

The present petition challenges the selection of respondent no.3 to the post of Senior Assistant Accountant by the respondent nos. 1 & 2. It is the contention of the petitioner that the selection of respondent no.3 is violative of instruction No. 11.7 of the instructions issued along with advertisement inviting applications. The condition No. 11.7 provides that a Government/semi-Government employee should submit his application with the prior permission of the employer and such permission should be annexed with the application.

Mr. A.Y. Kapgate, learned Counsel for respondent no. 2 Zilla Parishad, has brought to our notice condition no. 10.9 of the same instructions. It provides that if a Government/semi-Government employee submits his application through Head of the Department, only in that event the no objection certificate would be necessary.

The Apex Court in the case of **Commissioner of Police and others .vs. Sandeep Kumar reported in (2011) 4 SCC 644** while considering a case of an employee, who while filling an application form had failed to give details about the criminal antecedents has held that the approach should be to condone minor indiscretions. In the said case, the person who had withheld the information regarding criminal antecedents who was in fact acquitted, was terminated from the services on the ground of suppression of material information. Being aggrieved thereby, the said employee filed an application before the Central Administrative Tribunal which was dismissed. Against the said order, the employee had approached the Delhi High Court. The petition was allowed and the order of termination set aside. Being aggrieved thereby, the employer had approached the Apex Court by way of a S.L.P. While dismissing the S.L.P., the Hon'ble Apex Court held that such minor indiscretions should be condoned.

A similar view has been taken by the Rajasthan High Court in the case of **Rakesh Parashar .vs. The State of Rajasthan & others** in Civil Writ Petition No. 358/15 decided on 8th July, 2015.

In that view of the matter, we are not inclined to entertain the present petition in the extraordinary jurisdiction under Article 226 of the Constitution of India. The Writ Petition is rejected.

Judge

Judge

J.

CERTIFICATE

"I certify that this Order uploaded is a true and correct copy of original signed Order".

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