

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4833/2016
 (SHALU TULSHIRAM AHIRKAR (SHALU PURUSHOTTAM PETHE) **VERSUS** STATE OF
 MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri V.N. Patre, counsel for the petitioner.
 Shri S.J. Kadu, A.G.P. for the R-1 to 3.
 Shri H. Deshpande h/f Shri Anand Parchure, counsel for the R-4 & 5.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : NOVEMBER 25, 2016.

By this writ petition, the petitioner seeks a direction against the respondent no.4 to promote the petitioner on the post of Laboratory Assistant.

The petitioner is working on a Class-IV post with the respondent no.4 and after acquiring the requisite qualification for appointment to the post of Laboratory Assistant, the petitioner had applied to the respondent no.4 for promoting her to the post of Laboratory Assistant. Since the claim of the petitioner is not considered, the petitioner has filed the instant petition.

The learned counsel for the respondent no.4 states that the petitioner was informed by the headmaster of the respondent no.4-school on 25.08.2016 that the State Government has banned the appointments on non-teaching posts as per the new staffing pattern and as and when appropriate orders are received from the State Government, a senior and deserving employee would be considered for appointment-promotion to the post of Laboratory Assistant

after considering the seniority list. It is stated that a direction cannot be issued against the respondents to promote the petitioner on the post of Laboratory Assistant as the petitioner would not have an absolute right to be promoted on the said post.

In the circumstances of the case, a direction cannot be issued against the respondent no.4 to promote the petitioner on the post of Laboratory Assistant. It appears that as per the new staffing pattern, the State Government has not permitted the respondent no.4 to fill the vacant posts. Moreover, the petitioner does not have any absolute right to be promoted on the post of Laboratory Assistant merely because he has acquired the qualifications meant for appointment of a Laboratory Assistant while in service.

Since *vide* communication dated 25.08.2016, the respondent no.4 has already informed the petitioner that a senior deserving employee could be considered for promotion on the post of Laboratory Assistant after considering the seniority list, the grievance of the petitioner should stand redressed.

Since in the circumstances of the case, the relief sought by the petitioner cannot be granted, the writ petition is disposed of with no order as to costs.

JUDGE

JUDGE