

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5570 OF 2016

Atul Murlidhar Ramteke

-vs-

Zilla Parishad, Gadchiroli, thr.its Chief Executive Officer, Gadchiroli and others

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

Court's or Judge's Orders.

Mr. N.B.Rathod, counsel for the petitioner.
Mr.W.G.Paunikar, counsel for the respondent No.1.
Mrs.G.Tiwari, AGP for the respondent Nos.2 and 3.

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

DATE : 28.11.2016.

By this writ petition, the petitioner seeks a direction against the respondent No.1-Zilla Parishad Gadchiroli to accommodate the petitioner in the post of health worker (male) meant for the scheduled castes.

The respondent No.1-Zilla Parishad Gadchiroli had published an advertisement in the year 2008 inviting applications from candidates interested in appointment on the post of health workers. The petitioner applied for the post of health worker that was reserved for the scheduled castes. Initially, the name of the petitioner was included in the select list and after the reduction of the number of posts that were advertised, the name of the petitioner was included in the waiting list. It is the case of the petitioner that while the petitioner's name when placed in the waiting list, the committee had decided that the candidates whose names were included in the waiting list would be absorbed in future vacancies. According to the petitioner, since there is a vacancy on the post of health worker from 2013 in the scheduled castes category, the petitioner is entitled to be appointed on the said post.

We are not inclined to grant the relief sought by the petitioner in the instant petition. The advertisement on the basis of

which the petitioner seeks a direction against the respondent No.1 to accommodate the petitioner in the post of health worker was issued in 2008. Admittedly, the petitioner's name was included in the waiting list and not in the select list after the advertised posts were reduced. It is well settled that a candidate whose name appears in the waiting list would have no right to seek his appointment on the post. It is well settled that even a selected candidate does not have a right to be appointed on a post for which he/she is selected. In the year 2009 when the name of the petitioner was included in the waiting list, after removing it from the select list, it was observed by the committee that the candidates whose names were included in the waiting list would be considered when the vacancies arise in future. The import of this clause would not mean that even if the vacancies arise 10, 20 or 30 years later, it would be necessary for the respondent No.1-Zilla Parishad to appoint the candidates whose names were included in the waiting list in pursuance of a selection process that was initiated in the year 2008. It would not be binding on the Zilla Parishad to accommodate the persons whose names were included in the waiting list after eight to ten years from the date on which the select or the waiting lists were prepared. The petitioner would not have a right to be considered for the post of health worker after eight years from the date of the advertisement and selection. The petition filed 14/09/2016 suffers from laches. There is no right in the petitioner, much less when the name of the petitioner was placed in the waiting list, to be absorbed in the post of health worker, merely because a vacancy in the post of health worker arises after eight years. Merely because some other candidate whose name was included in the waiting list was appointed two years after the advertisement was issued, the petitioner cannot seek his appointment after eight years. The judgment reported in *AIR 1974 SC 259 (Ramchandra Shankar Deodhar and ors. v. The State of Maharashtra and ors.)* and relied on by the counsel for the petitioner cannot be made applicable to the facts of this case. In the said case, the fundamental right of the petitioner therein was infringed and in that background, the Hon'ble Supreme Court held that in the

discretion of the court, the delay would not come in the way of the petitioner therein to seek the relief claimed. Such is not the case here. Since even a selected candidate does not have a right to be appointed on the post for which he/she is selected, the petitioner cannot effectively state that the fundamental right of the petitioner in seeking the appointment is violated.

In the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

KHUNTE