

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6079 OF 2013

(Ashish s/o Sudhirrao Raole vs. Maharashtra Animal and Fisheries Sciences University)

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

Shri S.P. Palshikar, Advocate for petitioner.
Shri A.R. Patil, Advocate for respondent.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : MARCH 7, 2016

The petitioner, who applied in response to advertisement dated 4/5/2007 for the post of Junior Engineer was selected, but could not be appointed as an ad hoc employee was holding the post. That ad hoc employee approached Industrial Court and proceedings before Industrial Court culminated in the year 2011. The matter thereafter came to this Court in Writ Petition No. 4743/2011 at the instance of University and while allowing the petition of employer, the Court observed that University shall consider entitlement of present petitioner. After this judgment of learned Single Judge of this Court dated 24/7/2013, ad hoc employee continued till 2015 and

was discontinued thereafter.

Adv. Palshikar for petitioner submits that in this situation the petitioner ought to have been appointed immediately after judgment of this Court dated 24/7/2013 or then in any case after 2015. He further argues that validity period of one year of select list has got no bearing in the present circumstances. He is relying upon the order dated 31/10/2014 passed by this Court in Writ Petition No.311/2014 and decision of the Hon'ble Apex Court in **R.S. Mittal vs. Union of India** (1995 Supp (2) SCC 230).

Adv. Patil appearing for employer University attempts to distinguish both the aforesaid decisions. He invites our attention to the facts of the present matter and submits that life of select list has already expired. He is relying upon the judgment of the Hon'ble Apex Court in **State of Punjab vs. Ragbir Chand Sharma and another** {(2002) 1 SCC 113} to urge that said life cannot be extended even because of pending challenge or interim orders passed by this Court.

The basic facts are not in dispute. Insofar as order dated 31/10/2014 in Writ Petition No.311/2014 is concerned, there though petitioner was not given appointment, another person

Shri Baviskar was given the same and, therefore, select list was made operational and exhausted. Question was whether petitioner ought to have been appointed in place of Shri Baviskar. Thus, the issue of life of select list was not involved in that matter at all. Similarly, in the case of R.S. Mittal (cited supra), the Hon'ble Apex Court has observed that Appointing Authority cannot ignore select panel and on its whims, decline to make the appointment. When a person has been selected by Selection Board and there is a vacancy, which can be offered to him, keeping in mind his merit position, then, ordinarily there is no justification to ignore him for appointment.

In the present facts, though petitioner was selected, vacancy could not be available during life of select list. The incumbent working on that post on ad hoc basis approached Industrial Court, got interim orders and ultimately succeeded before Industrial Court. The employer was constrained to approach this Court in writ petition and learned Single Judge of this Court has allowed challenge of employer on 24/7/2013. Thereafter the vacancy became available. Ad hoc employee continued even thereafter for about two years, i.e. upto 2015, but that by itself does not clothe the petitioner with any right.

Admittedly, the life of select list was of one year and period of one year expired when matter was pending before Industrial Court. In this situation, we find that judgment of Hon'ble Apex Court in the case of State of Punjab (cited supra) squarely covers the controversy. As the select list has expired, it cannot be revived. No case is made out by the petitioner warranting interference. The petition is, therefore, rejected. No costs.

JUDGE

JUDGE

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