

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

WRIT PETITION NO. 6534/2015.

Shri Anil Dagadu Chavan

-VERSUS-

General Manager, Maharashtra State Power

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

Court's or Judge's Orders

CORAM : **B.P. DHARMADHIKARI**
& P.N. DESHMUKH, JJ.

DATE : **MARCH 23, 2016.**

Heard Shri V.N. Patre, learned Counsel for
the petitioner and Shri A.D. Mohgaonkar, learned
Counsel for the respondent.

2. This Court on 07.12.2015, while issuing
notice in the matter directed one post to be kept
vacant. After respondent appeared and filed its reply,
this Court on 12.02.2016, after noticing contention of
the learned counsel for the petitioner and in order to
extend to him a fair opportunity passed the following
order.

“ We have heard learned

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Advocate Shri Patre for the petitioner and learned Advocate Shri Mohgaonkar for the respondent. Admittedly, the petitioner did not have Non-Creamy Layer Certificate on 08.09.2014 when he sought employment with the respondent and on the last date of submission of the application i.e. on 10.09.2014.

The petitioner applied for Non-Creamy Layer Certificate on 06.10.2014 and he has been given it on 29.10.2014.

However, learned Advocate Shri Patre for the petitioner points out that in the Non-Creamy Layer Certificate was issued to the petitioner on 29.10.2014, a policy decision dated 31.07.2014 has been mentioned and as per the said policy decision said certificate is valid for three years. According to him, in this situation, the certificates issued to the petitioner earlier in the years 2012-2013 and 2013-2014 could have been treated as valid for a period of three years. However, he states that he has not seen that Government Resolution dated 31.07.02014. He therefore, seeks time of one week to verify the position and to make the correct statement in this respect.

Adjourned accordingly.”

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3. Accordingly, two amendment applications are taken out by the petitioner. By the first application bearing Civil Application (CAW) No. 275/2016, preferred before the said order, effort was to point out that the petitioner learnt about the reason for non inclusion of his name only after filing of the reply before this Court. In later application filed vide Civil Application (CAW) No. 583/2016, petitioner has produced on record Government Resolutions dated 31.07.2014 and dated 17.08.2013.

4. Shri Patre, learned Counsel submits that these government resolutions are in consonance with the decision of the Central Government taken way back of the year 1993. According to him, therefore, Non-creamy Layer Certificate issued to the petitioner and produced by him along with application was valid even on cut off date i.e. 10.09.2014 and subsequent thereto. As the post is still not filled in, name of petitioner must be included in the final select list and his entitlement for appointment may be evaluated.

5. Respondent states that certificate produced by the petitioner was valid upto 31.03.2014. Advertisement expressly requires a certificate valid

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upto 10.09.2014. The petitioner was called for verification on 22.04.2015 and then it was found that certificate produced by him was not valid till 10.09.2014.

6. Petitioner had applied for grant of another certificate on 06.10.2014, and he got that certificate on 29.10.2014.

7. It is in this background, that we have considered the facts. The petitioner along with his application has filed a certificate and did not disclose that it was valid upto 31.03.2014. On the contrary, he made efforts thereafter to procure a valid Non-creamy Layer Certificate thereafter.

8. The Government Resolutions of State Government dated 31.07.2014 and 17.08.2013 were not within his knowledge at that time. After getting knowledge of those Government Resolutions, effort is being made to contend that the certificate produced and otherwise valid upto 31.03.2014, should have been treated as valid even on 10.09.2014.

9. The argument that the provisions of the circular even apply to the certificates which were already issued, is obviously by way of an after thought

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The certificate to be issued in future i.e. after the date of this circular, are declared to be valid for three years.

10. In this situation, though the petitioner belongs to a backward class and is from Non-creamy Layer, as he does not satisfy the terms and conditions of the advertisement, he did not approach his employer with clean hands.

11. In this situation, we enquired from the respondent – employer as to whether any other vacancy is available with it to accommodate the petitioner. The learned counsel for the respondent states that no such vacancy is available. Accordingly, we dispose of the present petition with above observations. No costs.

JUDGE

JUDGE

Rgd.