

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO.83 OF 2017
IN
WRIT PETITION NO.2011 OF 2016**

Ravikumar s/o. Manik Tengre,
Age 27 years, Occ. Service,
R/o. Behind Nutan Prashala,
Tambri Vibhag, Osmanabad,
Tq. and Dist. Osmanabad ..Applicant

Vs.

1. Rupesh s/o. Pandurangji Surjuse,
Age 35 years, Occ. Service,
R/o. 18-B, Swayamprabha Colony,
Behind Balaji Nagar, Kathora Road,
V.M.V. Post, Amravati,
Tq. and Dist. Amravati
2. The State of Maharashtra,
Through its Secretary,
Finance and Accounting
Department, Mantralaya,
Mumbai – 32
3. The Chief Executive officer,
Zilla Parishad, Osmanabad,
(Selection Committee),
Osmanabad, Dist. Osmanabad
4. The District Collector,
Osmanabad (District Selection
Committee, Osmanabad),
Dist. Osmanabad ..Respondents

Mr.Sanjay Bhosle, Advocate i/b. Mr.V.V.Ingle,
Advocate for applicants
Mr.S.P.Urgunde, Advocate for respondent no.1
Mr.S.J.Salgare, AGP for respondent nos.2 and 4
Mr.K.U.More, Advocate for respondent no.3

--

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.
DATE : MARCH 24, 2017**

ORDER (*Per Sangitrao S. Patil, J.*) :

Heard.

2. As per the judgment and order dated 01.03.2017 passed in Writ Petition No.2011 of 2016, selection of the present applicant Ravikumar s/o. Manik Tengre was cancelled and instead respondent no.1 namely, Rupesh s/o. Pandurangji Surjuse was declared as selected for the post of Junior Accounts Officer. By the present Review Application, the applicant has prayed for a direction against the respondent – Zilla Parishad for accommodating him on the post which was being held by him earlier i.e. Junior Assistant (Clerical).

3. The learned Counsel for the applicant submits that in the case of **Nilkanth s/o. Ashok Patil Vs. The State of Maharashtra, Writ Petition No.2181 of 2015 decided on 01.10.2015**, this Court, in the similar circumstances, directed to accommodate the candidate, whose selection was cancelled, to his original post. He, therefore, prays that the same direction may be given in the present case also.

4. The learned Counsel for the respondent – Zilla Parishad has submitted a report showing that the post, which was earlier held by the present applicant, is still vacant and the applicant can be accommodated therein.

5. In this view of the matter, we are inclined to give direction to the respondent – Zilla Parishad to accommodate the present applicant on his original post i.e. Junior Assistant (Clerical) even though, his selection

for the post of Junior Accounts Officer has been held to be not sustainable.

6. The learned Counsel for the applicant submits that the present applicant has worked for some period on the post of Junior Accounts Officer and the salary that has been paid to him, may not be recovered from him only because his selection has been cancelled.

7. We are inclined to give direction to the respondent – Zilla Parishad that the salary that has been paid to the applicant while he was working as Junior Accounts Officer, shall not be recovered from him.

8. The learned Counsel for the applicant further submits that direction may also be given that whenever vacancy of the post of Junior Accounts Officer would be available with the respondent – Zilla Parishad, the applicant should be accommodated on that post. In our view, this

prayer cannot be accepted. No such future vacancy can be filled-up on the basis of the advertisement that was issued for filling up one post only from the candidates belonging to N.T.(B) category. Whenever, the post of Junior Accounts Officer would be vacant in future, the respondent – Zilla Parishad shall issue fresh advertisement. If the present applicant desires, he can participate in that selection process.

9. In the result, we pass the following order :-

(i) The respondent – Zilla Parishad shall appoint the present applicant on his original post i.e. Junior Assistant (Clerical) with continuity in service.

(ii) The respondent – Zilla Parishad shall not recover the salary that has been paid to the applicant while he was working as Junior Accounts Officer.

With these directions, the Review
Application stands disposed of. No costs.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE , J.]

kbp