

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

BENCH AT AURANGABAD.

WRIT PETITION NO.10107 OF 2017

Shri Giridhar S/o Barku Patil... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.A.Kale, advocate holding for Mr.S.B.Talekar,
advocate for the petitioner.
Mr.P.S.Patil, Additional Government Pleader for
the State.

...
**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 25.09.2017.

PER COURT :

1. The petitioner has challenged the judgment of the Maharashtra Administrative Tribunal, Bench at Aurangabad, thereby, dismissing his Original Application. The petitioner claimed the promotional post of Carpenter Instructor.

2. The learned counsel for the petitioner submits that the Circular of the year 1995 is not considered by the Tribunal. The said Circular categorically states that the person holding a class IV post can be considered for technical post of class III. Pursuant to the Circular of 1995 in Nagpur Division, many such persons were promoted on technical post of Carpenter Instructor. The said aspect is not considered. The learned counsel further submits that the petitioner was initially promoted on 3.7.1997 as Assistant Store Keeper. The petitioner did not join and was reverted to class IV post. Again the petitioner was promoted as Assistant Store Keeper on 19.1.2010. The petitioner did not accept the said post also due to his personal difficulty. The time bound promotional benefit as such was withdrawn. The learned counsel submits that the petitioner is entitled to be promoted on a technical post of Carpenter Instructor. The petitioner can not be discriminated. Moreover, the notification dated 14.12.2012, has come into effect subsequently. The petitioner was promoted as Junior Clerk on

class III post on 6.1.2012. On that date, the petitioner ought to have been promoted as Carpenter Instructor. The same is also permissible as per the Government Notification dt.14.12.2012. The learned counsel submits that the Circular dated 24.11.1995 permits promotion to be given to technical post. The Tribunal has failed to consider all these aspects.

3. Mr.Patil, learned Additional Government Pleader supports the order.

4. It would appear that petitioner was initially working in class IV post. The petitioner was promoted in the year 1997 as Store Keeper Assistant. The said post is a class III post. The petitioner did not accept the said promotion and on his request was reverted on class IV post. Thereafter, again in the year 2010, the petitioner was promoted in class III post as Store Keeper Assistant. The petitioner did not again join said post and remained in class IV post. Thereafter, on 6.1.2012, the petitioner was promoted as Junior Clerk. The

petitioner accepted the said post. Now the petitioner is claiming that he ought to be promoted as Carpenter Instructor. The notification dated 14.12.2012, lays down that the post of Carpenter Instructor can be filled by promotion but the condition is that the person should be working in class D post. The feeder cadre for the promotional post of Carpenter Instructor is class IV post. The petitioner is already working on class III post. No such regulation is pointed out wherein a person can be absorbed as a Carpenter Instructor if he is working in any other class III post. The right of promotion is not a fundamental right. The promotion would be governed by the Recruitment Rules. The Rules in vogue do not permit a person working in class III non-technical to be absorbed in class III technical post. The Circular dated 24.11.1995 relied by the petitioner would be of no avail to the petitioner inasmuch as the Director who has issued the said Circular states that the persons can be promoted on adhoc basis and that too temporarily which would not give a person right to a post. Even the said Circular

does not state that a person working in class III post can be absorbed in any other post of class III category.

5. The Tribunal has considered all these aspects of the matter.

6. In light of the above, no case for interference is made out. The Writ Petition is dismissed. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

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