

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.9193 OF 2017

Rasika d/o Motisingh Gahilot

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.Nitin S. Kadam, advocate for the petitioner.

Mr.S.G.Karlekar, A.G.P. for Respondents No.1 to 3.

CORAM : R.M.BORDE AND

SMT. VIBHA KANKANWADI, JJ.

DATE : 07th September, 2017.

P.C. :

1 Instant petition has been presented by the petitioner who claims to have been appointed in Class IV category in the year 2009 on compassionate ground in the educational institution managed by Respondent No.5. The proposal seeking approval to the appointment of petitioner has been turned down by the Education Officer on the ground that on the date of appointment, sanctioned post of peon was not available with the Management and as such, petitioner could not have been appointed in Class-IV category.

2 It has not been demonstrated that the reason recorded by the Education Officer is erroneous or that in fact such a post was available with the Management. Learned Counsel appearing for the petitioner contends that the delayed decision rendered by the Education Officer deserves to be quashed and set aside considering the aspect of continuous service rendered by the

petitioner with the management.

3 In fact, it is for the Management to redress grievance of the petitioner since the Management has proceeded to appoint the petitioner in spite of non availability of any sanctioned vacant post in the Class-IV category.

4 It would be open for the petitioner to proceed against the Management and seek redressal of his grievance. The order passed by the Education Officer does not appear to be erroneous.

5 It is the contention of the petitioner that there is a vacant post of Naik in the school and he could have been considered for appointment to the said post. The request made by the petitioner, in that regard, can be considered by the management within the framework of rules. The scale of pay prescribed for the post of Naik under Schedule "C" of Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, is Rs.775-1150, whereas, post of peon carries pay scale of Rs.750-940. Although both the posts are categorised as Class IV, since there is difference in the pay scale, request made by the petitioner for accommodating him on the post of Naik, which carries higher pay scale than the post of peon, cannot be considered for the first time in exercise of extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

6 It would be open for the petitioner to approach the Management with the grievance and it would also be open for the Management to consider the request made by the petitioner in

accordance with Rules.

7 No interference is called for in the petition. Petition is dismissed being devoid of substance.

SMT. VIBHA KANKANWADI
JUDGE

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R.M.BORDE
JUDGE