

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

Writ Petition No. 00729 of 2013

District : Jalgaon

Suresh s/o. Wamanrao Deshmukh,
Age : 46 years,
Occupation : Service,
R/o. A/p. Kolhadi,
Taluka Bhodwad,
District Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
Village Development and
Water Conservation Department,
Mantralaya, Mumbai - 32.
 2. The Commissioner,
Nashik Division,
Nashik.
 3. The Collector,
Jalgaon.
 4. The Chief Executive Officer,
Zilla Parishad, Jalgaon.
- .. Respondents.

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Mr. Vijay Y. Patil, Advocate, for the petitioner.

*Mr. S.B. Yawalkar, Addl. Government Pleader, for
respondent nos.01 to 03.*

Mr. Vijay Sharma, Advocate, for respondent no.04.

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**CORAM : R.M. BORDE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 06TH OCTOBER 2017

ORAL JUDGMENT [Per R.M. Borde, J.] :

Heard.

02. The petitioner is praying for issuance of directions to the respondents to consider his claim for promotion / appointment to Zilla Parishad in view of provisions of Section 10-A of the Maharashtra Zilla Parishads District Services (Recruitment) Rules, 1967, by relaxing age criteria. The petitioner is a village *panchayat* servant having completed ten years of service with village *panchayat*. The petitioner claims that his name has been enlisted in the seniority list prepared by the Zilla Parishad for the purposes of absorption of village *panchayat* servants in Zilla Parishad services and the petitioner has been placed at serial no. 103 in the seniority list prepared during the year 2007. The petitioner is 07th standard pass and claims his entitlement for appointment / absorption in Zilla Parishad service.

03. Rules 10-A and 10-B of the Maharashtra Zilla Parishads District Services (Recruitment) Rules, 1967 [For short, "Rules of 1967"], read thus :-

10A. Eligibility for appointment of certain Panchayat Servants in District Service (Class III) and District Service (Class IV).—

(1) The Panchayat Servants, who have completed not less than ten years of continuous full time service in the office of the village *panchayat*, shall be eligible for the appointment to the post of any Class III and Class IV in a District Services. Such appointments shall be made by the concerned Chief

Executive Officer of the *Zilla Parishad* directly on the basis of seniority from amongst the Panchayat Servants.

(2) Notwithstanding anything contained in these rules, whenever any Class III and Class IV posts in any District Services are to be filled by nomination, not less than ten per cent of the total posts declared to be vacant in the cadre pertains to the *Zilla Parishad* shall be filled from amongst the Panchayat Servants.

(3) Notwithstanding anything contained in these rules, whenever any Class III and Class IV posts in any District Services are to be filled from amongst the Panchayat Servants the upper age limits prescribed for appointment to the posts in the District Services under the relevant recruitment rules shall be relaxable upto forty-five years of age in respect of such Panchayat Servants :

Provided that the Panchayat Servant shall be appointed subject to the educational qualification, experience, etc. required to be possessed by candidate for and methods of appointment to the posts in the District Services and posts thereunder as specified in Appendices I to XIII.

(4) The person appointed should possess a certificate in computer operation prescribed by the Directorate of Information Technology, Government of Maharashtra, from time to time.

(5) A Panchayat Servant will have to resign from the post in village Panchayat immediately before joining the post in District Service.

(6) The terms, conditions and rules relating to a District Service shall be applicable to the Panchayat Servants from the date of joining of post in District Service.

10-B. Procedure to prepare seniority list.— (1) The Gram Sevak or as the case may be, a Village Development Officer shall prepare a list of Panchayat Servants who has completed ten years full-time service as a Panchayat Servant and has not completed forty-five years of his age. The list shall be prepared as per the staffing pattern prescribed by the Government Resolution No. VPM-2699/CR 206(1)/21, dated the 21st January, 2000. Provided that in exceptional cases the State Government is empowered to relax the conditions of staffing pattern and sanctioning the list. While doing this, the Government shall take into consideration the population of the village, income of the panchayat for last three years, existing work-load for the employees and actual salary paid to them during the last three years. The service record of every Panchayat Servant in triplicate, in the Form appended with the rules shall also be prepared by the *Gram Sevak* or the Village

Development Officer. The said Form shall be considered while fixing the seniority of the Panchayat Servant *inter se*. The *Gram Sevak* or as the case may be, the Village Development Officer shall forward one copy of the said Form duly filled into the concerned Block Development Officer and another one of the concerned Panchayat Servant.

(2) On receipt of the copy of the said Form the Block Development Officer shall prepare a combined seniority list, in duplicate, of all Panchayat Servants working in each village Panchayats within his jurisdiction. The Block Development Officer shall also prepare a separate seniority list of eligible servants for any Class III and Class IV posts in District Service. He shall forward one copy of the seniority list to the Chief Executive Officer of the concerned *Zilla Parishad*.

(3) The Chief Executive Officer shall prepare a combined seniority list on the basis of all seniority lists received from all Block Development Officers in that District and shall forward the copies of the said combined list to the Government, Block Development Officers, village Panchayat and Panchayat Servant.

(4) If the Panchayat Servant is not desirous to accept the appointment offered by the Chief Executive Officer in Class III and Class IV posts in District Services, he shall immediately inform the same, in writing, to the Chief Executive Officer :

Provided that, such refusal to accept the appointment does not make him to be ineligible for other posts in future. "

04. It is not a matter of dispute that the seniority list of the village *panchayat* servants has been prepared by the Zilla Parishad for the purposes of absorption / appointment to Zilla Parishad in accordance with Rule 10-A of the Rules of 1967. There is no challenge to the correctness of the list prepared by the Zilla Parishad. It is the contention of the petitioner, that he has been superseded and junior employees have been absorbed in Zilla Parishad services.

05. The petitioner claims that he is a

physically handicapped having disability to the extent of 45 % and as such, his claim ought to have been considered from amongst physically disabled category. We have perused disability certificate produced at Exhibit "A" with the petition. It does appear that the petitioner sustained fracture to his right ankle in the year 2007 as a result of which he suffered 45 % non-progressive disability. It was recommended to review medical condition of the petitioner and compute the disability. There is no recent disability certificate placed on record and, as such, it is difficult to arrive at a conclusion that the petitioner is a person falling within physically disabled category.

06. So far as contention of the petitioner, that he has been superseded, also does not appear to be sound. It is pointed out that the *panchayat* servant enlisted at serial no.142 in the seniority list belongs to Scheduled Caste category and as such, he was given precedence over the petitioner in the seniority list, whereas *panchayat* servant at serial no.183 is from O.B.C. category. Apart from this, the junior employees who have been considered for absorption do possess better educational qualification and have been absorbed in the clerical cadre. The petitioner is not entitled to claim entry in clerical cadre since he holds educational qualification as 07th standard pass. The educational qualification held by the petitioner permits him for consideration in Class-IV cadre. It has not been

demonstrated that any junior employee similarly placed as that of the petitioner has been given precedence superseding claim of the petitioner. It has also not been pointed out by the petitioner that any other junior employee holding similar qualification, as that of the petitioner and from amongst the same class i.e. open category, has been given precedence in the matter of absorption / appointment to Class-IV cadre in Zilla Parishad service. The petitioner has not been given any differential treatment and as such, grievance raised by the petitioner in the instant petition, does not appear to be appropriate.

07. There is no merit in the petition. The writ petition, as such, stands dismissed. Rule discharged. There shall be no order as to costs.

(Smt. Vibha Kankanwadi)
JUDGE

(R.M. Borde)
JUDGE

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