

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10256 OF 2016

Vishnu Murlidhar Kantode

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

WITH

CIVIL APPLICATION NO. 12992 OF 2017

CIVIL APPLICATION NO. 13855 OF 2017

Shri Chalak h/f Shri Avinash S. Khedkar, Advocate for the Petitioner.

Shri A. B. Girase, G.P. for Respondent Nos. 1 to 4.

Shri G. K. Thigale (Naik), Advocate for Respondent No. 5.

Shri Dnyaneshwar B. Pokale, Advocate for the Intervener in C.A.No.12992 of 2017.

Shri Vinayak D. Rakh, Advocate for Intervener in C.A.No.13855 of 2017.

**CORAM : S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATE : 4th December, 2017

PER COURT :

1. Mr. Chalak, learned advocate for the petitioner submits that earlier the petitioner in the year - 2001 is appointed as Shikshan Sevak on compassionate ground. In the year - 2007 the petitioner is appointed as an In-charge Fireman. The learned advocate submits that as per the staffing pattern

approved by respondent no. 2 the Collector, Beed published an advertisement inviting applications for recruitment to the several posts including 15 posts of Maharashtra Municipal Fireman Services Class C-2 on 9.9.2016. The learned advocate submits that in the advertisement reservation is not provided, nor preference is given to the in-service candidate for the posts of Maharashtra Municipal Fireman Services Class C-2. The learned advocate submits that same is contrary to the circular dated 26.4.2016.

2. The learned advocate further submits that the petitioner has an experience of working as a fireman since the year - 2007. The petitioner could have been appointed on the said post. There is a provision of nominating an officer on the said post. The learned advocate relies on Section 2 Sub-Section 9 of the Maharashtra Fire Prevention and Life Safety Measures Act, 2006. So also Rule 3 of the Maharashtra Fire Prevention and Life Safety Measures Rules, 2009.

3. We have heard learned counsel for the respondents.

4. Admittedly on the date of advertisement petitioner was not eligible to apply, as he had crossed the maximum age limit. In view of the fact that the petitioner had crossed the maximum age limit and the petitioner was not eligible to apply pursuant to the impugned advertisement, the grievance of the petitioner that preference is not given to in-service candidate relying on Circular dated 26th April, 2016, needs no consideration. The provision of nominating officer is in all together a different context, same has nothing to do with the filling in the posts in question.

5. No such rule or provision is pointed out which would enable the appointment of the petitioner by promotion or the petitioner being entitled for direct appointment.

6. In light of above, no relief can be granted to the petitioner. The writ petition as such is disposed of. No costs.

7. In view of disposal of writ petition, civil applications also stand disposed of.

[S. M. GAVHANE, J.]

marathe/Dec.17

[S. V. GANGAPURWALA, J.]