

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
W.P. NO. 11330 OF 2016**

Smt. Kanchan Shivaji Raje]
Age 44 years, Occ: Service]
(Class IV Employee), R/o C/o]
Shri. Dilip T. Gore, Nilkanth Nagar,]
Part III, Post : Haripur, Tal. Miraj,]
Dist. Sangli].. Petitioner

Vs.

1. Ld. Commissioner and Registrar]
Co-Operative Societies,]
Maharashtra State, at Pune]
]]
2. Ld. Divisional Joint Registrar,]
Co-operative Societies (Audit)]
Mumbai Division, New Mumbai.].. Respondents

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Mr. Manoj A. Patil Advocate for Petitioner
Mr. N.C. Walimbe AGP for the Respondent Nos. 1 and 2

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**CORAM : SMT.V.K.TAHILRAMANI AND
DR.SHALINI PHANSALKAR-JOSHI, JJ.
DATED : SEPTEMBER 27, 2017**

ORAL JUDGMENT [PER SMT. V.K.TAHILRAMANI, J.]:

1 Heard the learned counsel for the petitioner and the learned A.G.P. for the respondents. Rule. By consent, rule is made returnable forthwith and the matter is finally heard.

2 The petitioner had preferred Original Application No. 225 of 2014 before the Maharashtra Administrative Tribunal,

Bench at Mumbai, in which, the petitioner has sought directions to appoint her as Sub-Auditor and the order dated 3.12.2013 be quashed. By the said order, her appointment as Sub-Auditor came to be cancelled. By order dated 21.9.2015 the Tribunal dismissed the said Original Application. Being aggrieved thereby, the petitioner has preferred the present writ petition.

3 The petitioner was working as "Parichar" in the office of Zilla Parishad, Arajh, Tal. Miraj, Dist. Sangli. She was appointed on that post on 27.11.2007. That is a Class-IV post. Pursuant to an advertisement dated 21.2.2007, she applied through Maharashtra Knowledge Cooperation Limited (MKCL) for Class-III post of Cooperative Officer, Grade-I and other posts including that of Sub-Auditor.

4 It is the case of the petitioner that she was issued appointment letters to the post of Sub-Auditor on 11.12.2008, 28.5.2009 and 23.2.2011. It is the case of the petitioner that she joined duty on 1.8.2009 at Ratnagiri, however, the record which is annexed by the petitioner shows otherwise. The petitioner sent communication by letter dated 1.10.2010 in

which, she has stated that she could not join the duties on account of domestic problems. Thereafter, there is another letter on record dated 26.11.2012 by the petitioner in which, again she has stated that she cannot join the duties on account of domestic problems. Thus, the letters of the petitioner themselves show that she had not joined her duties. It is seen that from time to time the petitioner had made correspondence with the concerned department stating that she cannot join her duty on account of domestic problems.

5 The learned counsel for the petitioner submitted that there was no time limit mentioned in the appointment orders wherein she had to join the duties. No doubt, in the letter of appointments the period in which she must join the duties was not stated, but, this time period has to be a reasonable time period and it cannot be said that till eternity the petitioner can join the duty at any point of time. From the letters of the petitioner, it is clear that she herself did not join the duties on account of domestic problems. On account of not joining duty, the appointment of the petitioner came to be cancelled.

6 The plain issue is that mere order of appointment does not give vested right to the petitioner if pursuant thereto,

she did not join duties within a reasonable period of time. The post cannot be kept vacant for an indefinite period. Admittedly, the petitioner is still working as "Parichar" in Zilla Parishad in Dist. Sangli. The learned counsel for the petitioner submitted that in fact, the petitioner has joined duties as Sub-Auditor on 1.8.2009. It is not understood how the petitioner could have joined duties on the post of Sub-Auditor when she still continues to work as "Parichar" in Zilla Parishad even till today. This infact, clearly shows that the petitioner did not join the duties and from her various communications, it is clear that she has sought time to join duties. This supports the contention of the respondent that petitioner had never joined duty as sub-auditor. The Tribunal has taken into consideration all these facts and thereafter, dismissed the Original Application.

7 Looking to the facts of this case and the reasons stated in the order of the Tribunal, no interference is called for, hence, the petition is dismissed. Rule is discharged.

[DR.SHALINI PHANSALKAR-JOSHI,J.] [SMT.V.K.TAHILRAMANI, J.]