

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5846 OF 2015

Pillai Maridas Velswamy ... Petitioner

V/s.

Department of Higher Technical Education &
ors. ... Respondents

Mr. K. Bahadur i/b. Kranti L. Chinnappa for the petitioner.
Ms. R.A. Salunkhe, AGP for the State.

CORAM : **NARESH H. PATIL AND
Z.A. HAQ, JJ.**

13th September, 2017.

P.C.

It is submitted that the petitioner was initially appointed as Craft Instructor. The petitioner claimed promotional benefits in service. As the benefits were denied, the petitioner preferred a writ petition to this Court being Writ Petition No. 3161/2012. The said petition was disposed of by Division Bench of this Court (Coram: Mohit S.Shah, C.J. & M.S. Sanklecha, J) vide order dated 3rd April, 2014. Paragraph-6 of the said

order reads as under:

In view of the our Judgment dated 4 December 2013, it is not possible to accept the above contention. The writ petition is therefore allowed. The respondent nos. 1 to 4 are directed to apply section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in the matter of promotion to the post of Assistant Apprenticeship Advisor/Vice Principal (Class II), Industrial Training Institute. In other words, wherever reservation is applicable for direct recruitment, such reservation shall be made available for promotion also.

2. The petitioner filed a Contempt Petition No.477/2014 in Writ Petition No. 3161/2012. According to petitioner being a handicapped person he was declined benefits of the provisions under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Contempt Petition came to be disposed of by Division Bench of this Court (Coram: Mohit S.Shah, C.J. & B.P. Colabawalla,J) vide order dated 10th December, 2014. Paragraph 4 of the said order reads as under:

“4. It will be open to the Petitioner to make a representation to the concerned authorities for giving the Petitioner the deemed date of promotion to the higher post. If such representation is made within two weeks from today, the respondent authorities will consider the same within four weeks from the date of disposal of the Special Leave Petition.”

3. Department of Higher Technical Education/State preferred a special leave petition challenging the order passed by Division Bench of this Court in Writ Petition No. 3161/12 dated 3rd April, 2014. The Special Leave Petition came to be dismissed by an order dated 8th December, 2014.

4. In the meanwhile by an order dated 5th December, 2014 the State promoted the petitioner temporarily to comply with the order passed in proceedings of Writ Petition No. 3161/12. The contempt petition bearing no.477/2014 was disposed of on 10th December, 2014. The petitioner now seeks direction to respondents to regularize the promotion of the petitioner to the post of Asst. apprenticeship/ Vice Principal/Principal ITI w.e.f. 9/1/2008 with all accruing benefits. The aforesaid order dated 5th

December, 2014 is taken on record and marked 'X' for identification.

5. This petition was pending since last two years. On the last date of hearing we directed a responsible officer from the State to remain present with the reply. Mr. Kailas Sakharam Ravte, Inspector in the office of the Director of Vocational Education and Training, M.S. filed affidavit. It would have been appropriate if a responsible Senior officer of the State had filed an affidavit. We have taken the affidavit filed on record. In paragraph 15 the deponent states as under:-

“ With reference to Para No.15, I say and submit that the content of the para under reply is denied by the Respondents. I further say and submit that the Petitioner herein does not acquire the required educational qualifications as the Petitioner is diploma in Industrial Electronics and hence not eligible for further promotion (Jr. Class – I promotion) as for the said post required Education qualification is Diploma/Degree in Electrical Engineering/Mechanical Engineering stream.”

6. We do not express any opinion on the merits of the claim of the petitioner for promotion.

7. Learned AGP on instructions of the concerned officer present in Court states that petitioner's representation will be attended to by Principal Secretary, Skill Development and Entrepreneurship Department, Mantralaya, Mumbai. We find that there has been abnormal delay in attending to the representation made by the petitioner and the orders passed by this Court.

8. The petitioner undertakes to file a comprehensive representation addressed to the Principal Secretary within a week's time.

9. On receiving such representation, we direct that Principal Secretary, Skill Development and Entrepreneurship Department, Mantralaya, Mumbai to decide the said representation within two months from the date of receipt of such representation on its own merits. We direct the Principal Secretary to hear the petitioner personally or through his authorised representative. The Principal Secretary would pass a brief reasoned order on the concerned issue.

10. All issues are kept open. It is clarified that we have not expressed any opinion on merits of the claim. Writ Petition stands disposed of.

11. List the matter for compliance after ***two months***.

(Z.A. HAQ, J)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.