

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

WRIT PETITION NO. 11228 OF 2011

1	Shivaji Nagnath Lokare	]
2	Pomaji Shailaja Parmeshwar	]
3	Jodmote Nilesh Gangadhar	]
4	Abhaykumar Mallikarjun Nelure	]
5	jadkar Jyoti Shrirang	]
6	Makar Amar Pandurang	]
7	Bhosale Bhujanga Jalindar	]
8	Thaware Pandurang Manikrao	]
9	Nadaf Dastagir Noorahamad	]
10	Ingole Anil Sukhadev	]
11	Tanaji Shivaji Mane	]
12	Gavit Ramesh Gimba	]
13	Ravi Laxman Nivrutti	]
14	Kulkarni Nityand Madhavrao	]
15	Ravindra Devidas Raut	]
16	Samadhan Manohar Jadhav	]
17	Dhawale Dattatray Sarjerao	]
18	Dond Rohidas Subhash	]
19	Tarabai Popat Ahire	]
20	Sandeep Machindra Deore	]
21	Hanumant Sopan Mohite	]
22	Nilam Pralhad Ughade	]
23	Santosh Jalbajirao Gumde	]
24	Dhammpal Pandurang Tode	]
25	Vandana Shankar Bhalshankar	]
26	Shivanand Sidramappa Chillarge	]
27	Pravinkumar Pundlik Ghadge	]
28	Balasaheb Shivaji Mane	]
29	Vijay Parasram Kambale	]
30	Shital Rajendra Jadhav	]
31	Ashok Shivaji Patil	]
32	Jaywant Vishnu Chavan-Patil	]
33	Pravin Subhash Bhorkade	]
34	Dattatraya Mahadeo Nale	]
35	Dhanjay Vasudeo Pawar	]

36 Maruti Pandurang Jundale]
 37 Ganesh Laxman More]
 38 Shobha Maruthi Jadhav]
 39 SajjadKhajamiya Kazi]
 40 Nagubai Parshuram Nagane]
 41 Kantu Jemu Rathod]
 42 Sunita Umaji Rathod]
 43 Vinayak Venkatrao Baindle]
 44 Dattatrya Kailas Hangargekar]
 45 Adinath Lahu Rak]
 46 Dattatray Vishwasrao Garje]
 47 Dattatray Yashvant Shinde]
 48 Swati Narhari Kshirsagar]
 49 Vilas Sakharam More]
 50 Sujata Dagadu Bhosale]
 51 Pradip Bhanudas Kale]

All residing At & Post : Laul,]
 Taluka: Madha, District: Solapur] ... Petitioners

Versus

1 State of Maharashtra,]
 Ministry of Finance, Mantralay]
 Mumbai - 32.]

2 Government of Maharashtra,]
 Rural Development Department]
 Mantralaya, Mumbai - 32]

3 The Secretary,]
 Rural Development Department]
 Mantralaya, Mumbai - 32]

4 The Chief Executive Officer,]
 Zilla Parishad, Solapur,]
 Maharashtra.] ... Respondents

Mr. S.S. Pakale i/b Mr. Avinash R. Belge for the Petitioner.

Ms. Sushma Bhende, AGP, for the Respondent Nos.1 to 3.

Mr. Vijay Killedar for the Respondent No.4.

**CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

THURSDAY, 16TH MARCH, 2017

ORAL JUDGMENT : [Per S.C. Dharmadhikari, J.]

1 The petitioners, by this writ petition under Article 226 of the Constitution of India, are seeking a writ of certiorari or any other writ, order or direction calling for the records and proceedings pertaining to Government Resolutions dated 31st October, 2005, 21st May, 2010, 19th July, 2011 and an order dated 18th January, 2010, of the third respondent being Annexures F to I to the writ petition and based on that, they are seeking a declaration that the respondent No.4 shall continue to extend the benefits under the Maharashtra Civil Services (Pension) Rules, 1982, and existing General Provident Fund Scheme to the petitioners and they ought not be brought under the new pension scheme, namely, Defined Contribution Pension Scheme (for short "DCPS").

2 The writ petition is filed by the petitioners, who are 51 in number.

3 The writ petition proceeds to set out the details of the appointments of the petitioners. The petitioners claim that they they have joined as Gram Sevaks on contract basis on 16th November, 2005, and they have been confirmed on 16th November, 2008, in the services of the various Gram Panchayats in Solapur District, their date of selection is 10th September, 2005, 12th September, 2005 and 28th October, 2005. Going by these dates of selection, the petitioners cannot be brought under the purview of the new scheme and their service conditions, including pension must be under the old scheme, is the case set up.

4 To appreciate the correctness of the submissions of Mr. Pakale, we would refer to the facts in some details. As stated above, the petitioners are in the services of the various Gram Panchayats within the control of the Zilla Parishad, Solapur. Thus, they are Zilla Parishad employees. The petitioners are

governed by the rules and regulations framed under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, insofar as their recruitment and appointment. The petitioners case is that by virtue of the rules and regulations, the Zilla Parishad employees are entitled to pensionary benefits under the Maharashtra Civil Services (Pension) Rules, 1982, and existing General Provident Fund Scheme. The petitioners state that after they were initially recruited and appointed as Gram Sevaks on contract basis, subsequently, their appointments were confirmed. That was on completion of three years' probation period. The confirmation comes with continuity of service and pensionary and retirement benefits. The petitioners would, therefore, submit that for the purposes of continuity in service, the dates of their initial appointment as Gram Sevaks would be the governing date. The petitioners submit that the earlier scheme of 31st May, 2000, and modified by the 6th June, 2001 Government Resolution, enabled them to seek employment as Gram Sevaks. In other words, the petitioners would be appointed initially on contract basis and on successful completion of the period stipulated in the contract, their appointments would be confirmed. The petitioners state that the Chief Executive Officer of the Zilla Parishad

invoked section 94 of the Maharashtra Zilla Parishads and Panchayat Samitis Act for appointing the petitioners as Gram Sevaks. The appointments on contract basis are governed under the Maharashtra Zilla Parishads (Contract Services) Rules, 1963. The appointments are made on regular establishment. They cannot be said to be appointments under Rule (3) of the Rules of 1963. Therefore, independent of the same, the first three years of service rendered by the petitioners is to be computed and taken as a regular service for the purpose of pensionary, retirement and other benefits. That is how they would claim that they are entitled to benefit of pension under the Maharashtra Civil Services (Pension) Rules 1982, and General Provident Fund Scheme.

5 The petitioners claim that a new pension scheme was introduced with effect from 1st November, 2005. That was applicable to State Government employees. However, the Government Resolution dated 31st October, 2005, in relation to this new pension scheme specified that it would be applicable to those who are recruited on or after 1st November, 2005. The petitioners cannot be brought within the purview of this scheme

for their appointments may be initially on contract, but prior to 1st November, 2005 (cut off date). It is in these circumstances, the Defined Contribution Pension Scheme (New Scheme) is inapplicable to the petitioners. The attempt of the respondents to apply that Scheme to the petitioners and vide the impugned Government Resolutions and communication is *ex facie* illegal and unconstitutional. The same violates the rights guaranteed by Articles 14 and 16(1) of the Constitution of India.

6 On the earlier occasion, a contention was raised by Mr. Vijay Killedar appearing for the respondents and particularly the contesting respondents that the impugned communication bringing the petitioners under the new pension scheme is neither illegal nor unconstitutional, as submitted. He sought time to tender an affidavit by which the factual position would be clarified.

7 An affidavit-in-reply has been filed to this writ petition by the Deputy Chief Executive Officer, Zilla Parishad, Solapur. In that affidavit it is stated that the new Defined Contribution Pension Scheme in respect of Gram Sevaks who were appointed

on 1st November, 2005 or thereafter has been invoked and applied to the petitioners. The petitioners have suppressed their appointment orders from which it is evident that each one of them were appointed on 16th November, 2005, 17th November, 2005, 10th November, 2006, 10th January, 2006 and 20th January, 2006 on the basis of selection made by way of interviews held on 10th and 12th November, 2005. If each of the petitioner is interviewed and appointed after 1st November, 2005, then, by virtue of the law laid down by this Court in a Division Bench judgment delivered in Writ Petition No. 2455 of 2012 decided on 11th October, 2013, the old pension scheme cannot be applied to them. In the judgment delivered in the case of *Kaushalya Shivaji Kekan and Ors.*, this Court clarified that once the recruitment by the Zilla Parishad is on or after 1st November, 2005, then, the old pension rules cannot be invoked and applied to such appointees. Reliance is placed upon paragraphs 11, 16 and 17 of this judgment.

8 The petition, therefore, should be dismissed for suppression of material facts.

9 When this affidavit-in-reply was allowed to be tendered and taken on record, Mr. Pakale was called upon to furnish an explanation to the contents of the same.

10 Apart from proceeding on denials, Mr. Pakale would submit that there is no suppression of material facts at all. The details of each of the petitioners are disclosed in Annexure A to the writ petition. Nothing has been suppressed. Mr. Pakale would submit that the Division Bench judgment relied upon by Mr. Killedar has no application to the facts and circumstances of the present case.

11 The other contention raised and pressed before us by Mr. Pakale is that when the rules of the Zilla Parishad permitted taking into consideration the services rendered on contract, then, the petitioners can validly claim that they have been recruited from a date prior to 1st November, 2005. Their dates of confirmation in service cannot be reckoned as the date of their appointment and for bringing them under the purview of the new scheme. Mr. Pakale would submit that the Government Resolutions use the words “recruited” and “appointed” and

interchangeably. In any event, if these words are understood to convey a distinct meaning even then the process of recruitment in the petitioners' case has commenced much prior to 1st November, 2005. It may be that it culminated in an appointment order after 1st November, 2005. Therefore, the petitioners cannot be brought under the purview of the new scheme. Relying upon section 6 of the General Clauses Act, 1897, and principles analogous thereto, Mr. Pakale would submit that all benefits which have accrued from the date of initial recruitment as contract employees, therefore, ought to be noticed and protected. So noticed and protected, the petitioners can be taken to be appointed on 16th September, 2005, or 12th September, 2005 or 28th October, 2005. The appointment orders issued to them on 16th November, 2005, therefore, cannot be relied upon.

12 For appreciating the rival contentions, we have perused the entire petition and the annexures thereto so also the affidavit-in-reply and the annexures to the same. The Division Bench judgment was rendered in the case of the petitioners therein appointed as Shikshan Sevaks on the establishment of the Zilla Parishads on various dates from March 2005 to

November, 2007. Later on, between 2008 to 2010, they have been confirmed as Assistant Teachers. The controversy was that there was a Government of India Notification dated 22nd December, 2003, introducing new pension scheme known as “Defined Contribution Pension Scheme”. The Central Government employees brought within the purview of this scheme were those who were recruited on or after 1st January, 2004 in the Central Government service. By the first Resolution dated 31st October, 2005, the Government of Maharashtra declared that this new pension scheme would be made available by replacing the existing pension scheme and would be applicable to the Government servants who are recruited on or after 1st November, 2005. Sub-clause (c) of clause 2 of the first resolution records the decision of the Government that the provisions of the Maharashtra Civil Services (Pension) Rules, 1982, and the Maharashtra Civil Services (Commutation of Pension) Rules, 1982, and the existing General Provident Fund Scheme would not be applicable to the Government servants who are recruited on or after 1st November, 2005. Thus, clause 3 incorporates the salient features and the Division Bench then refers to clauses 4, 5, 7 and 8.

13 The second Government Resolution is dated 29th November, 2010. That reiterates by clause (4) that the new pension scheme will apply to those who are recruited in Government service or Zilla Parishad service on or after 1st November, 2005. Then, there is another Government Resolution dated 19th July, 2011, which applied to the Shikshan Sevaks / Gram Sevaks / Krishi Sevaks on the establishment of 100% aided Schools, Zilla Parishads and Agricultural Departments. They may have been not recruited prior to 1st November, 2005, but if their services have been regularised thereafter, then, this resolution clarifies that it is to such employees the provision of Pension Rules, Commutation of Pension Rules and General Provident Fund Scheme shall continue to apply from the dates of their respective appointments in regular pay scale. In short, such category of employees will not be governed by the first resolution, though confirmation of their appointment is made after 1st November, 2005. The argument before the Division Bench was that even assuming that power under the Zilla Parishads Act is exercised, no corresponding rule making exercise has been made. The argument of Mr. Pakale, who

appeared for the petitioners in that case was that the scheme has been formulated only by the second Government Resolution. Merely because Pension Rules and Commutation of Pension Rules have been amended, the same will not apply to the employees of the Zilla Parishad as the rule making exercise under the said Act of 1961 has not been made. The details of the new pension scheme ought to have been made part and parcel of the first resolution. Therefore, the Government Resolution dated 31st October, 2005, will not apply to those who are appointed on the establishment of the Zilla Parishad on or after 1st November, 2005. Then, the alternate argument is also noted, namely, that this new pension scheme will apply to those Zilla Parishads and the recruitees thereof who have been employed in terms of the conditions specified in the second Government Resolution.

14 This argument was met by the Zilla Parishad by pointing out that all the Zilla Parishads have adopted the Pension Rules, the Commutation of Pension Rules and the Maharashtra General Provident Fund Rules, 1986. If by the second Resolution of 31st October, 2005, amendments have been carried out to the Pension Rules, the Commutation of Pension Rules and the

Maharashtra General Provident Fund Rules, then, there is no substance in the contention that separate rules have to be framed or existing rules amended by the Zilla Parishads in the State so as to confer benefits in terms of the first Government Resolution.

15 In dealing with these contentions, the Court firstly derived the power of the Zilla Parishad to adopt the Pension Rules and that is conferred by section 248 of the Act of 1961. After reproducing it and closely analysing it, the Division Bench noted in paragraph 10 that the Resolution of the Government styled as the first Government Resolution by clause 4(c) records and in terms that in exercise of the power conferred under the proviso to section 248, the State Government has directed that the Government Resolution will apply to employees who are recruited on or after 1st November, 2005, in the services of the Zilla Parishad. The argument, therefore, that Zilla Parishads are not governed by the earlier Pension Rules and unless those Rules are amended the Government Resolution will not apply to them has been negatived.

16 That is how in paragraph 11, the Division Bench held
as under :

“11. Thus, it is very clear that by the first Government Resolution, the new Pension Scheme was made applicable to the Zilla Parishad employees who are recruited on or after 1st November, 2005. Those who are recruited after 31st October 2005, cannot claim that they should be governed by the Rules and the Pension Scheme applicable only till 31st October 2005. They have no legal right to make such a claim.”

17 Then, reliance is placed rightly on paragraph 16 and
17 of this judgment and which read thus :

“16 There is another aspect of the matter. The petitioners are not disputing that the provisions of Pension Rules, the Commutation of Pension Rules and the General Provident Fund Rules were applicable to the employees of the Zilla Parishads. By the first resolution, the said Rules have been amended. By virtue of amendments, it is very clear that the said Rules will now apply only to those employees who were recruited before 1st November 2005. We find that in this petition there is no challenge to the amendment carried out to the said Rules.

17 The petitioners who were recruited by the Zilla Parishads on or after 1st November 2005 were fully aware about the terms and conditions of the service. By accepting the employment, they have accepted the terms and conditions of the service and the present petition has been filed belatedly in the year 2012. Therefore, there is no merit in the challenge to the first and second Government resolutions at the instance of those who are recruited by the Zilla Parishads on or after 1st November 2005. It is clear that those who were regularly recruited by the Zilla Parishads prior to 1st November 2005 will

continue to be governed by the old Pension Scheme and unamended Rules. We may also clarify that in case of one category, the modification has been made by the third Government Resolution which applies to Shikshan Sevaks, Gram Sevaks and Krishi Sevaks recruited prior to 1st November 2005 on contract basis who were subsequently brought on regular pay scale after satisfactory completion of service. Such employees will not be governed by the new pension scheme and they will continue to be governed by the old pension scheme contemplated by the Pension Rules, the Commutation of Pension Rules and General Provident Fund Rules.”

18 In the case before us, an attempt has been made to rely upon the wording and particularly in the Marathi and English version of the first Resolution. Mr. Pakale would submit that in the English version of the Government Resolution dated 31st October, 2005, the words employed are that the new pension scheme would apply to those Government servants who are recruited on or after 1st November, 2005, in State service, whereas in the Marathi version the word "नियुक्त" (“*niyukt*”) has been employed and that would denote appointed. He would, therefore, submit that given there is a distinction between a recruitment which is only a process and the appointment when the actual posting or taking over the charge, then, we should extend the benefit of these words as understood by law or, in any way, by section 6 of the General Clauses Act. Mr. Pakale's

arguments noted earlier also indicate that he admits that the cut-off date is 1st November, 2005. The argument is that the Gram Sevaks before us are recruited prior to the cut-off date and they may have received the posting order after the cut-off date. Therefore, they have been recruited prior to the cut-off date and no reliance can be placed on the exhibits to the affidavit-in-reply and relied upon by Mr. Killedar.

19 In that context what we have seen is that there is an order dated 16th November, 2005 issued to the first petitioner – Shivaji Nagnath Lokare. That clearly refers to the fact of the interviews held on 10th and 12th November, 2005 and the select list prepared in pursuance thereof. The Selection Committee, has recommended the petitioner for appointment for 17th November, 2005 to 16th October, 2006 as a Gram Sevak on contract basis. It is rightly contended, therefore, that even the initial appointment on contract basis of the petitioner No.1 is pursuant to an interview and selection process held after issuance of the Government Resolution dated 31st October, 2005. If the selection itself commenced by an interview held on 10th and 12th November, 2005, the recommendation made thereafter and the

appointment made on contract is dated 16th November, 2005, then, as rightly contended by Mr. Killedar, the larger controversy need not detain us.

20 Mr. Pakale relies upon the fact that the commencement of the process and culminating into the issuance of this order is much prior. In fact, it has commenced by virtue of the Government Resolutions dated 3rd August, 2005 and prior thereto 8th December, 2003 and 28th January, 2004. Mr. Pakale's argument, therefore, is that we should not reckon and take into consideration the date either of the issuance of the appointment order on contract basis dated 16th November, 2005, or the interviews held on 10th and 12th November, 2005.

21 We are unable to agree with him for more than one reason. It is common ground that when the State or its instrumentalities decide to fill up certain posts, then, there is a complete procedure contemplated in law. Firstly, the posts have to be created on the establishment. Secondly, for creation and subsequent filling up of such posts, sanctions and approvals of the competent authorities have to be obtained. Thirdly and

importantly, being a public employment, the recruitment rules have to be in place. Fourthly, these recruitment rules must set out a complete scheme, in the sense, once the posts are created and duly sanctioned or approved, they have to be filled up by issuance of a notice or advertisement and for the knowledge of the public at large. The invitation to the public ought to be clear and precise. Those eligible and in terms of the criteria laid down in the rules and in the advertisement alone would qualify. It is not only because they qualify and they apply that they can be appointed. There is a notified procedure which follows the issuance of the advertisement, receipt of applications, shortlisting thereof etc. There is either a written examination or coupled with the written examination, an oral interview; list is prepared and of the selected candidates. The law is those who are selected or those whose names are notified in the select list have no vested right of appointment. The right guaranteed by Article 16(1) and in matters of public employment is a right of being considered and not a right of being appointed. Therefore, if selected, none can claim that they ought to be issued an appointment order as of right. Once the procedure and as elaborate as we have referred has to be followed, then, merely

because of the intent to sanction the posts or the intent to permit creation and sanction of the posts would not necessarily and in the facts and circumstances of the case, be the date of reckoning or the cut off date. The petitioners have understood this aspect in their pleadings itself. Though Mr. Pakale would claim that the petitioners have made a mistake in averring that they are recruited on or after 30th October, 2005, as Gram Sevaks, and that mistake may be overlooked in paragraph 4(a), but at page 9 and in continuation of the same paragraph, the petitioners state that they were initially appointed as Gram Sevaks as provided under the Gram Sevak Scheme and they were given appointment orders. Their appointment order and relied upon, copy of which is Exhibit-B, issued to the first petitioner, is identical to the one annexed to the affidavit-in-reply. The only thing is that each of these petitioners have accepted these appointment orders. However, as far as the petitioners are concerned, they have further understood that it is on completion of the three years probation period as Gram Sevak that their services would be confirmed. It may be by obtaining the continuity so as to enable them to draw pension, but their understanding is in no way different than what is spelt out from a reading of their

appointment orders. It is in these circumstances that the petitioners rely upon the modification to the earlier scheme by Government Resolution dated 6th June, 2001. A copy of this Government Resolution is annexed as Exhibit-D to the petition. Prior thereto, there was an earlier scheme of 31st May, 2000. These Government Resolutions provide that Gram Sevaks would be appointed against available and sanctioned post of the Gram Sevak in the regular establishments. Annexure-A to this Government Resolution stated that Gram Sevaks would be appointed in the available sanctioned post. Their qualifications, remuneration and pertinently their procedure for confirmation envisaging a Selection Committee duly constituted was known to them. Therefore, in sub-para (c) of para 4 at page 11, the petitioners state that under that Government Resolution there was no specific clarification as to whether the first three years service allegedly on contract basis would be considered for the purpose of pensionary and retirement benefits. That is why the clarification is sought and a subsequent Government Resolution dated 20th April, 2006, came to be issued. That Government Resolution clarifies that the first three years service on contract would be counted for pensionary and retirement benefits. The

date of recruitment for pensionary and retirement benefits is the date of the initial appointment allegedly made on contract basis. The petitioners then rely upon a further Government Resolution and issued in the month of July, 2011.

22 It is in these circumstances that we are of the opinion that when the petitioners are aware that their appointments, even made on contract basis, were much after the issuance of the first Government Resolution of 31st October, 2005, then, it is evident that the larger controversy need not detain us.

23 However for the sake of completeness, we would refer to the judgment in the case of *Vijay Kumar Mishra & Anr. vs. High Court of Judicature at Patna & Ors. (2016) 9 SCC 313*. In Vijay Kumar's case, the argument was that each of the appellants before the Supreme Court were interested in obtaining the appointments in the subordinate judicial service in the State of Bihar. They were informed by a communication that they will have to tender their resignation first from the subordinate judicial service and only thereafter they could appear for the interview. An advertisement was issued inviting applications

from eligible advocates for direct recruitment in respect of 99 vacancies as on 31st March, 2015. The cut-off date for eligibility was 5th February, 2015. The petitioners / appellants before the Supreme Court appeared in the preliminary as well as in the main examination pursuant to such advertisement. In the meanwhile, they qualified for subordinate judicial service in the State of Bihar in the 28th Batch. They joined this service in August, 2015. The result of the main examination for the post of District Judge Entry Level (Direct from Bar) was published on 22nd January, 2016. Both the petitioners qualified in the main examination. The details of the interview were published. Call letters were issued to the petitioners / appellants, but the condition imposed on them was they would be interviewed provided they obtain no objection certificate of the employer. Therefore, they filed a representation before the Registrar General of Patna High Court to appear in the interview. The requests were declined. The communication was that the Court was pleased to reject the representation dated 5th February, 2016, of Mr. V.K. Mishra, Probationary Civil Judge (Junior Division) Siwan with regard to permission to appear in the interview in respect of District Judge Entry Level (Direct from

Bar) Examination, 2015, in view of Article 233(2) of the Constitution of India as he is already in the State subordinate judicial service. However, he may choose to resign before participating in the interview, which resignation, once tendered, would not be permitted to be withdrawn. It is such communications which were challenged before the Patna High Court. The Patna High Court held that since before the date of the interview the petitioners/appellants before it joined judicial service, they cannot in terms of clause (2) of Article 233 of the Constitution of India be permitted to continue with the selection process for District Judge Entry Level (Direct from Bar) as they are now members of the judicial service and they have rightly not been called for the interview. The High Court did not examine the true meaning and purport of Article 233(2), but dealt with the argument that notwithstanding the fact that they are members of the judicial service, the eligibility for competing for the post of District Judge should be considered on the basis of the facts as they existed on the cut-off date and the subsequent events are not to be taken into consideration in deciding whether the appellants are barred from appearing in the interview.

24 This is the contention which was merely noted, but the Hon'ble Supreme Court also considered another argument that the word "appointed" appearing in Article 233 of the Constitution of India should necessarily include the entire selection process starting from the date of submitting application by the person concerned till the date of his appointment. Therefore, the Solicitor General of India before the Supreme Court contended that if any person is found to be in service of the Union or the State, as the case may be, on the date when he applied, then such person would suffer disqualification prescribed in Article 223(2). He would neither be eligible to apply nor be eligible for appointment to the post of District Judge. The Hon'ble Supreme Court rejected this argument by holding that there lies a subtle, but important distinction between the words "selection" and "appointment" in service jurisprudence. It also held that for determining the eligibility of a person with reference to his service, the words "selection" and "recruitment" cannot be substituted in place of the word "appointed". Appointed cannot be read to include the words "selection", "recruitment" or "recruitment process".

25 Given this binding mandate and flowing from this decision and even otherwise in the facts and circumstances of the present case, we do not find that the Zilla Parishad was wrong or in error in issuing the impugned communication. They are based on the Government Resolutions. The Government Resolutions themselves cannot be set aside and at the instance of such of the petitioners before us who are relying upon a process prior to the appointment, but culminating in the appointment. In the circumstances, we do not see how section 6 of the General Clauses Act, 1897, also has any application. It applies only when the General Clauses or the Central Act or Regulation made after the commencement of the General Clauses Act repeals an enactment hitherto made or hereafter to be made and unless a different intention appears therein, the repeal of that shall not affect what is relied upon by Mr. Pakale and appearing in clauses (b) and (c) of the same.

26 Once we are not dealing with the case of either the General Clauses Act repealing anything or the Central Act or Regulation repealing any enactment, then we need not go into the applicability of clauses (b) and (c) of section 6 as well.

27 As a result of the above discussion, we do not find any merit in the writ petition. Rule is discharged. There will be no order as to costs.

B.P. COLA-BAWALLA, J. S.C. DHARMADHIKARI, J.