

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 576 OF 2016

(Rekha Chaturji Chandane vs. The State of Maharashtra thr. its Secretary, Department of Social Justice & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
FEBRUARY 22, 2017.**

Heard Mrs. S.W. Deshpande, learned counsel for the petitioner, Shri S.P. Deshpande, learned Additional GP for respondent Nos. 1 to 3 and Shri P.S. Patil, learned counsel for respondent No. 4.

2. Consequent to the directions issued by this Court in Writ Petition No. 5382 of 2004 and Writ Petition No. 3311 of 2010 on 07.09.2015, the proposal for grant of approval to the employment of the petitioner as a Peon has been looked into. On 03.11.2015, approval has been given from 01.07.2015 until further orders.

3. Mrs. Deshpande, learned counsel submits that the petitioner had entered employment way back in the year 1996-97 and as such that appointment needed to be approved from day one i.e. from 01.07.1997.

4. Shri Patil, learned counsel appearing for the management does not dispute this. However, he points out that one Raju Kalhane had worked as a Peon and, therefore,

the department has restricted approval to the petitioner from 01.07.2015.

5. The learned AGP is relying upon the reply affidavit. He states that Raju Kalhane had filed Writ Petition No. 5382 of 2004 which was dismissed on 03.03.2015. As such, the petitioner has been given approval after that date.

6. Mrs. Deshpande, learned counsel submits that Raju Kalhane was wrongfully given approval on 13.02.2009 and he worked only for 10 months and an undertaking was obtained from him that in case of any difficulty, he would return the salary received.

7. We are not in a position to find any connection between the employment of the petitioner and Raju Kalhane. If the management has in any way played any mischief, that by itself cannot be used to the detriment of the petitioner. If the petitioner has entered the service properly and joined in terms of appointment order dated 27.06.1997 on 01.07.1997, existence of Raju Kalhane in employment may not have any bearing on it.

8. We, therefore, find the impugned order dated 03.11.2015 to the extent it grants approval to the employment of the petitioner from 01.07.2015 unsustainable. We accordingly direct Respondent No. 3 to take a fresh decision about the date from which such

approval is given to the petitioner, after considering the relevant material. As already noted supra, existence of Raju Kalhane by itself cannot be a fact to be used against the present petitioner. However, if while considering the consequential relief like release of wages etc., the respondents have to consider wages paid to Shri Raju Kalhane, that aspect can be looked into independently.

9. Accordingly, we direct Respondent No. 3 to pass appropriate order granting approval to the employment of the petitioner within next three months. We also grant the petitioner liberty to approach again, if she is aggrieved thereafter.

10. Writ Petition is accordingly partly allowed and disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

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