

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.260 OF 2016

Sudhakar s/o. Sanduji Gandhile ..Petitioner

Vs.

Maharashtra Industrial Development Corporation ..Respondents

Mr.S.R.Barlinge, Advocate for petitioner

Mr.S.S.Dande, Advocate for respondent

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.
DATE : DECEMBER 10, 2018**

PER COURT

Heard Mr.Barlinge, learned Counsel for the petitioner and Mr.Dande, learned Counsel for the respondent.

2. Mr.Barlinge, learned Counsel for the petitioner, submits that the petitioner had applied from N.T. (C) category and was appointed in the service

of M.I.D.C. as a Surveyor on 06.02.1991. At present, the petitioner is working as Deputy Engineer. The learned Counsel submits that after joining the service in M.I.D.C. as Surveyor, the petitioner filed a number of representations to the respondent and contended that since he passed Diploma in the First Division, as per the policy of the M.I.D.C., the petitioner's appointment may be considered as Junior Engineer from the year 1991. Learned Counsel submits that time and again, the petitioner has reiterated his grievance. But, was of no use. On 03.03.1995, a Circular was issued that the incumbents, who acquired the degree qualification while in service, would be considered for the post commensurate to their qualification and benefit of 3/8th of the earlier service rendered as Assistant Engineer, would be counted for the purpose of counting seniority. Learned Counsel submits that though the petitioner was entitled to be appointed as Junior Engineer on 06.02.1991, the respondent considered the petitioner

as Junior Engineer with effect from 02.02.1995. Learned Counsel submits that the representations of the petitioner were not considered by the respondent. Therefore, the petitioner had approached this Court by filing Writ Petition No.5720 of 2015. This Court, by order dated 09.06.2015, had directed the respondent to decide the representation of the petitioner. However, on erroneous ground, the representation came to be rejected. He submits that the other persons who were similarly situated, have been directly appointed as Junior Engineer. Learned Counsel, to substantiate his submissions, refers to the appointment of one Mr.Deore and submits that said Deore was interviewed as a Diploma Holder and appointed as Junior Engineer in 1994. He submits that the petitioner has been discriminated.

3. Mr.Dande, learned Counsel for the respondent, submits that the petitioner was appointed as Surveyor pursuant to the advertisement issued by the respondent. At that time, no advertisement was

issued for the post of Junior Engineer. The said Shri.Deore was appointed in the year 1994 as Junior Engineer, as his name was sent by the office of Employment Exchange and as he was possessing the degree. He submits that three other persons, who were appointed as Junior Engineers, were sent by the Staff Selection Commission.

4. It appears that the claim of the petitioner that he ought to have been appointed as Junior Engineer from the date of his initial appointment i.e. 06.02.1991, has been negatived by the respondent way back in May, 1995. Subsequently, the said claim was reiterated again by filing representations.

5. The petitioner, indisputably, was appointed on 06.02.1991 as Surveyor, pursuant to the advertisement issued by the respondent. It appears that in the year 1993, to fill-in the posts of Junior Engineers, names of the candidates were called from the office of Employment Exchange and then, the

candidate possessing diploma, were appointed to the posts of Junior Engineers on 01.02.1994 and after completing the service of five years as Junior Engineers, they were appointed as Assistant Engineers.

6. The question before us would be about the mode of appointment of the petitioner. As observed above, the petitioner was appointed pursuant to the advertisement issued by the respondent for the post of Surveyor. The post of Junior Engineer was not advertised at that time. The said Shri.Deore was appointed in the year 1994 as Junior Engineer on the basis of the names received from the office of Employment Exchange. Of course, the respondent could have considered the name of the petitioner also at the relevant time for the post of Junior Engineer. However, it appears that, the names were called from the office of Employment Exchange and from those names, the persons were appointed as Junior Engineers. In the year 1993, no advertisement was

issued for the post of Junior Engineer. The claim of the petitioner was already rejected in the year 1995. Had the petitioner, approached this Court immediately, his grievance could have been considered. Upon negation of the claim of the petitioner in 1995, further representation would not inure to the benefit of the petitioner.

7. In view of the above, no relief can be granted to the petitioner. The Writ Petition is disposed of. No costs.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

kbp