

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

1 WRIT PETITION NO. 5121 OF 2013

wp

LAXMIKANT VAIJINATH MANE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Choudhari Sushant B.

AGP for Respondent No 1 : Mrs. A.V.Gondhalekar

Advocate for Respondent Nos. 2 and 3 : Mrs. Dube Anjali
(Bajpai)

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CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.

DATE : JULY 5, 2018

O R D E R :

Mr. Choudhary, learned counsel submits that the petitioner was appointed in the year 1982 as a Field Officer. On 13.10.2008 the petitioner was promoted as District Manager Grade II, however, the provisional seniority list was published, which showed the petitioner in the cadre of Assistant Field Officer. The petitioner raised objection. Thereafter final seniority list is published. The petitioner is shown as Assistant Field Officer. The petitioner was already promoted as District Manager Grade II. There was no reason to show the

petitioner on the post of Assistant Field Officer when he was actually promoted. Even the draft rules are not final.

2. Smt. Dubey, learned counsel for the respondents submits that the petitioner was provisionally promoted on 13.10.2008 to the post of District Manager Grade II with certain conditions. The promotion was subject to two years probation and it was also further clarified in the promotion order that if the petitioner's work is not satisfactory, his promotion would come to an end and would stand revoked. The petitioner was suspended from 6.3.1994 to 2.2.1995. Thereafter again in the year 2010 the petitioner was suspended for causing fraud in distribution of subsidized seeds under Rastriya Anna Suraksha Abhiyan. The departmental inquiry is stayed, as the criminal case is pending against the petitioner.

3. Considering the above, as the performance of the petitioner was not satisfactory during the probation period, he could not be confirmed on the promotional post.

4. We have considered the submissions of the learned counsel for the respective parties.

5. The factual matrix that after the petitioner was promoted as District Manager Grade II, the petitioner was suspended before his probation period could be completed, Criminal case was filed against the petitioner and departmental inquiry was initiated for causing fraud in distribution of subsidized seeds is not disputed.

6. As per Rule 16 (ii) of Maharashtra State Seeds Corporation Limited Employees Service Rules, 1995, the seniority of individual would be subject to the date of confirmation and the same would be reflected in the seniority list. The petitioner was not confirmed on the promotional post because of the afore said reasons.

7. In the light of above, the case of the petitioner certainly cannot be considered. However, after the petitioner is acquitted/exonerated in the departmental inquiry, then the petitioner may take appropriate steps.

8. Writ Petition is disposed of. No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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