

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

WRIT PETITION NO. 11641 OF 2016

Umakant Shankar Sarje

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri S. V. Mundhe, Advocate for the Petitioner.

Shri S. P. Tiwari, A.G.P. for Respondent Nos. 1 to 3.

Shri P. P. More, Advocate for the Respondent No. 4 & 5.

**CORAM : S. V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATE : 27TH NOVEMBER, 2018.

FINAL ORDER :

. Mr. Mundhe, the learned advocate for the petitioner submits that, the petitioner is appointed after following due selection process and issuance of advertisement under appointment order dated 27.07.2009. The petitioner is not paid salary. The impugned communication dated 09.05.2011 is bad. As per the staffing patter, there are fifteen posts admissible of lab attendant. Fourteen are filled in and one post is vacant. The petitioner is appointed on vacant post. The learned counsel further submits that, his salary was also sanctioned for the post of lab attendant.

2. The respondent college has come with a case that the petitioner has left his services from 13.08.2016. According to the petitioner, the petitioner is not allowed to sign the muster.

3. Be that as it may. Same would tantamount to otherwise termination. In that case the petitioner would have remedy before the Tribunal. The petitioner in appeal that may be filed before the Tribunal may agitate about the admissibility of the post also.

4. The communication dated 09.05.2011 is with regard to availability of post of peon, however, the petitioner is appointed as Lab Attendant.

5. As far as impugned communication is concerned, the communication is based on the ground that the post of peon is not admissible, whereas the petitioner claims to have been appointed as Laboratory Attendant. The Joint Director, Higher Education, Aurangabad shall reconsider the claim of the petitioner with regard to the appointment to the post of Lab Attendant, as in the impugned communication case of the petitioner appears to have been considered viz-a-viz the post of peon. While considering the claim of petitioner, the impugned communication would not be an impediment. The same shall be considered expeditiously and preferably within a period of four (04) months

from the date of appearance of the petitioner. The petitioner may appear before the Joint Director of High Education, Aurangabad on 12th December, 2018. The Joint Director may hear the petitioner and the management and, thereafter, pass orders afresh with regard to payment of salary of the petitioner. The writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/Nov. 18