

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

WRIT PETITION NO. 839 OF 2017

Ashok Vithalrao Deshpande and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri. Santosh S. Jadhavar, Advocate for the Petitioners.

Smt. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 and 2.

Shri K. B. Jadhavar, Advocate for the Respondent No. 3.

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

DATED : 15th March, 2018

PER COURT:

. Mr. Jadhavar, the learned advocate submit that, the petitioners are working as Muster Assistants in the Works Department, Zilla Parishad, Beed since prior to 1993. According to the learned counsel both petitioners are qualified to be absorbed as Assistants to Civil Engineer. They stand at serial Nos. 1 and 4 in the seniority list. The learned advocate submits that there are large number of vacancies available with the Zilla Parishad, Beed. However, respondents are not taking steps to absorb the petitioners.

2. The learned Additional Government Pleader submits that, as on the date of the filing of affidavit by the Sub Divisional Officer, Majalgaon, the petitioners were at serial Nos. 425 and 488 in the seniority list. If, the petitioners attain the seniority in due course of time in future, then the posts of assistants to Civil Engineer would be provided to them on priority basis subject to vacancy of the posts.

3. The affidavit is filed by the Junior Administrative Officer, (Works) Division, Zilla Parishad Beed. Mr. K. B. Jadhavar, the learned advocate for the Zilla Parishad, submits that under letter dated 16.11.2013 the proposal is forwarded to the Deputy Commissioner (Establishment) Aurangabad for absorption. The power of absorption of muster assistants are with the Deputy Commissioner (Establishment). The proposal is already forwarded.

4. None of the respondents have disputed the entitlement of the petitioners to be absorbed as per their qualification. It is a matter of time. According to petitioners, they are at Sr. Nos. 1 and 4 of the seniority list of the persons to be absorbed as Assistants to Civil Engineers. Whereas according to the Government, the petitioners were at serial Nos. 425 and 488 respectively of the seniority list.

5. Be that as it may, it is submitted that, proposal is already forwarded to the Deputy Commissioner (Establishment). It is the further contention that the Deputy Commissioner has forwarded the said proposal to the Government.

6. In case, the vacancy exists, then there is no impediment to absorb the petitioners according to their seniority and the availability of posts and according to their qualification. As the proposal is already forwarded by the Zilla Parishad, in the year 2013 and in turn the proposal is forwarded by the Deputy Commissioner, it is high time the decision is taken on the said proposal, as the petitioners would be nearing the age of retirement in due course.

7. In the light of the above, the Respondent Nos. 1, 2 and 3 shall consider the case of petitioners for absorption in accordance with their seniority and the availability of the vacancy commensurate to their qualification and shall take decision upon the said proposal in accordance with law, expeditiously and preferably within a period of four (4) months from today. The writ petition is accordingly disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]