

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

WRIT PETITION NO. 3330 OF 2017

Vaibhav Sadashive Rale and others .. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri Prashant D. Suryawanshi, Advocate for Petitioners.
Ms. P. V. Diggikar, A.G.P. for the Respondent No. 1.
Shri M. N. Navandar, Advocate for the Respondent No. 2.

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

DATE : 13TH JUNE, 2018.

FINAL ORDER :

. Mr. Suryawanshi, the learned counsel for petitioners submits that, the petitioners were initially appointed on 23.07.2004 as senior clerk for a period of eleven months. Thereafter, they were appointed as clerk cum typist under order dated 09.09.2005 again for a period of eleven months and subsequently order is issued giving regular appointment from 31.08.2006. The learned counsel submits that, the appointments of the petitioners ought to have been considered as clerk cum typist from 09.09.2005 i. e. the initial date when the petitioners were appointed. The learned counsel submits that, similar benefit is given to the agricultural assistants and entry to that

effect has been taken in the service book. The agricultural assistant is given first appointment on 18.12.2003 for eleven months and subsequently were regularized since their date of appointment. The said benefit deserves to be given to petitioners. Unless sanctioned posts are available, the petitioners could not have been appointed even for eleven months.

02. Mr. Navandar, the learned counsel for the respondent No. 1 submits that, the petitioners were appointed as clerk cum typist as stop gap arrangement for eleven months. Thereafter fifty seven clerk cum typists were given promotion on the post of senior clerk and posts of clerk cum typist become vacant and on those posts petitioners came to be absorbed on the basis of ratio of 75 : 25 percent.

03. We have considered the submissions. We have also gone through the appointment orders. The appointment orders dated 09.09.2005 state that, petitioners are appointed on compassionate ground for a period of eleven months as stop gap arrangement. Subsequently under order dated 31.08.2006, the petitioners are appointed on regular basis. The regularization can be given from the initial date of appointment, if the post on which the petitioners were working were sanctioned and vacant posts. Initially appointments of the petitioners were as a stop

gap arrangement for eleven months. The affidavit is filed by the respondents stating that it is only when 57 clerk cum typist were given promotion on the post of senior clerk on 31.07.2006, the posts of clerk cum typist on regular basis become vacant and so these petitioners were given appointment orders on 31.08.2006 as clerk cum typist. Till 31.07.2006 the posts were not vacant to be filled in from nomination quota.

04. In the light of the above, it would not be possible to accept the case of petitioners. The writ petition as such is disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 18