

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

121 WRIT PETITION NO. 14672 OF 2017

SATISH PUNDLIK DHANGAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Jadhav Ganesh R.
AGP for Respondents 1 to 4 : Mr. S.G.Karlekar
Advocate for Respondent no.5 : Mr. Patil Sandesh R.

.....

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

DATE : JUNE 25, 2018

O R D E R :

Learned counsel for the petitioner submits that the petitioner was appointed as a gardener (Mali) in the year 1997 on temporary basis. Till 14.7.2009 the petitioner continuously worked with the respondent. On 14.7.2009, respondent no.4 terminated the services of the petitioner. The petitioner approached respondent no.4 for re-appointment and continuity of services, but to no avail. The post was subsequently created, however, respondent no.4 appointed respondent no.5 on the said post.

2. Learned counsel submits that the petitioner having worked for almost 12 years, ought to have been appointed on the said post. The Tribunal failed to consider various aspects of the matter. In fact, the Tribunal did not consider the case on merits properly and rejected Miscellaneous Application filed by the petitioner. According to the learned counsel, the substantive claim of the petitioner ought to have been considered by the respondents.

3. Mr. Karlekar, learned AGP supports the order and submits that for the first time the post of gardener (Mali) was created in the year 2011, however, the recruitment rules are not framed. Respondent no.5 is appointed on temporary basis.

4. We have considered the submissions. It is not disputed by any of the parties that for the first time the post of gardener (Mali) was created on the establishment of respondent no.4 in the year 2011.

There was no sanctioned post of gardener (Mali) till the year 2011. The petitioner was terminated in the year 2009. No steps were taken by the petitioner till the year 2016. Respondent no.5 is appointed in the year 2011 on temporary basis upon creation of the post.

5. Considering the afore said aspects of the matter, the Tribunal has not committed any error.

6. In the light of above, the Writ Petition is disposed of. No costs.

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

dbm