

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.4442 OF 2014

Shri Dilip Vithalrao Waghmare ... Petitioner

V/s.

The Managing Director
Maharashtra State Cooperative
Milk Corporation Ltd. ... Respondents

Mr.U.P.Warunjikar, Mr. Siddhesh Pilankar a/w. Mr.Satyajet Shirke for the petitioner.

Mr. R.P.Sakhdeo for respondents.

**CORAM : NARESH H. PATIL, ACTING C.J.
& G.S. KULKARNI, J.**

26th September, 2018.

P.C.

The petitioner challenges the order passed by the Commissioner for Disability dated 14th October, 2013. The petitioner is working as a peon and seeks promotion to the post of Junior Clerk.

2. The learned Counsel appearing for Corporation disputes the statement and submits that petitioner is working as a helper from unskilled category. Thereafter he got one more promotion. It is submitted by the learned Counsel that as of now no post of junior clerk is available since the recruitment was affected in the year 1998. The learned Counsel appearing for Corporation submits that as and when the vacancy would arise, the Corporation would take necessary steps in accordance with procedure established and the provisions of law. The Corporation has filed affidavit-in-reply of Mr.Sunil Maruti Shelar, Dy. Manager (Personnel / Administration). In Paragraph-8 the deponent states as under:-

“8. I say that as and when the occasion of promotion in case of the petitioner arises, the Respondent would follow the provisions of Law in this regard including G.R. dated 5.3.2002 and the directions given in the operative part of the impugned order. A copy of the Respondent's reply to the Petitioner's Rejoinder before the Ld. Competent Authority (alongwith it's english translation) is annexed hereto and marked as Exhibit 'D'. I say that as per the

reservation provided for handicap workers at the rate of 3% i.e. 1% each for blind/short sight (visually handicapped), deaf and physically handicap respectively, in all 8 posts are reserved for disabled workers belonging to all these 3 categories. However, as against this complement of 8 reserved posts for disable employees, actually 12 disable employees are employed by the respondent. I say that no post of Junior clerk is at all available since the recruitment which was effected in 1998. In fact there are 162 sanctioned post of Junior Clerk as per staff pattern are against these sanctioned posts there 234 Junior Clerk working in the Respondent which includes 12 handicap workmen. Thus there is overstaffing in the Category of Junior Clerk.”

3. We direct the Managing Director of respondents to consider the provisions of the Rights of Persons with Disability Act, 2016, its application to the establishment and take necessary steps in future in general. In particular, the petitioner's case would be taken up as and when the next vacancy would arise, keeping in view the rights of other

similarly situated employees in the same category on its own merits.

4. With aforesaid observations and directions, Writ Petition stands disposed of.

G.S.KULKARNI, J

ACTING CHIEF JUSTICE

L.S. Panjwani, P.S.

Lata
Sunil
Panjwani

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signed by Lata
Sunil Panjwani
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2018.09.27
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