

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

WRIT PETITION NO. 2389 OF 2015

Khandappa Shivappa Kore	...Petitioner
Versus	
The District Collector, Solapur & Ors.	...Respondents

Mr. I. M. Khairdi for Petitioner.
Mr. C. P. Yadav – AGP for State – Respondents.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 27 JUNE 2018

ORAL JUDGMENT :

- 1] Heard the learned counsel for the parties.

- 2] Rule. With the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.

- 3] The challenge in this petition is to the judgment and order dated 28th October 2014 made by the Maharashtra Administrative Tribunal (MAT) dismissing the petitioner's

Original Application No. 756 of 2011 seeking for his absorption in government service in terms of the GR dated 10th March 2005.

4] Mr. Khairdi, the learned counsel for the petitioner submits that the petitioner had placed material on record that he was appointed as an unpaid copying clerk by Tahsildar, South Solapur, by order dated 1st August 1994. He points out that the Tahsildar had already recommended the absorption of the petitioner in government service. The Tahsildar had also issued a certificate that the petitioner was in fact working as an unpaid copying clerk with effect from 26th May 1989. He points out that in terms of the GR dated 10th March 2005, unpaid copying clerks who had completed 10 years of service as on 10th March 2005 were entitled to be absorbed in government service. Mr. Khairdi submits that to the same effect is the GR dated 22nd October 1996. He submits that the denial of the benefit of these GRs to the petitioner is illegal and therefore the impugned judgment and order warrants interference.

5] Mr. Khairdi, in the alternate relying upon certain

averments in the affidavit in reply as well as affidavit in rejoinder filed before the MAT, submits that there is no dispute that the petitioner was appointed as a copying candidate vide order dated 22nd August 1995. If this is to be accepted, then, the petitioner has a shortfall of 4 – 5 months in completing 10 year period as prescribed in the GR dated 10th March 2005. Mr. Khairdi submits that taking into consideration the documents on record, this was a case for condoning the shortfall and absorbing the petitioner in government service. Mr. Khairdi submits that the denial is illegal and unconstitutional and therefore the impugned judgment and order warrants interference.

6] Mr. Yadav, the learned AGP for the State submits that the so-called appointment letters produced by the petitioner are fake and such appointment letters find no reference in the records maintained by the State. Mr. Yadav submits that there is no question of any relaxation of 10 years rule, particularly in a situation where there is absolutely no clarity as regards the very appointment of the petitioner as an unpaid copying clerk. Mr. Yadav further points out that though, the claim of the petitioner was that he was entitled

to be absorbed in government service in the year 2005, the Original Application was instituted only in the year 2011. He submits that the claim was barred by limitation or in any case by delay and laches. Mr. Yadav submits that there is no jurisdictional error in the impugned judgment and order so as to warrant any interference with the same.

7] Rival contentions now fall for our determination.

8] The MAT, has held that so-called certificates of appointment allegedly issued by the Tahsildar are not backed by any contemporaneous records and therefore, it will not be safe to rely upon the same. In such circumstances, the MAT, has upheld the contention of the respondents that there is no evidence that the petitioner was indeed working as an unpaid copying clerk since 1st August 1994. There is really no perversity in this finding of the record recorded by the MAT.

9] There is also no clarity as regards the petitioner's so-called appointment with effect from 22nd August 1995. However, even if the same is to be taken into consideration,

admittedly, the petitioner, does not complete the 10 years period prescribed in the GR dated 10th March 2005, upon which the petitioner relies in support of his claim for absorption. There is no provision for relaxation pointed out and in the absence of any such provision, the MAT, was obviously right in not purporting to exercise any power of relaxation.

10] There is also no explanation as to why the petitioner chose to approach the MAT in the year 2011, when according to him by 10th March 2005 he had completed period of 10 years as an unpaid copying clerk. The MAT, has mainly denied relief to the petitioner on merits but, in paragraph 8 of the impugned judgment and order has also commented on the fact that the petitioner remained silent for all these years and approached the Tribunal only in the year 2011. This is an additional ground on basis of which, the MAT, would have dismissed the Original Application No. 756 of 2011.

11] For all the aforesaid reasons, we see no good reason to interfere with the impugned judgment and order made by

the MAT. This petition is therefore liable to be dismissed and is hereby dismissed. Rule is discharged. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA