

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4841/2017

(DINESH NILKANT NAGARKAR **VERSUS** M.S.E.T.C.L., MUMBAI & ANOTHER)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.B. Rathod, counsel for the petitioner.
Shri S.D. Zoting, counsel for the respondents.

**CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : MARCH 26, 2018.

By this writ petition, the petitioner has challenged the orders of the respondents, dated 20.05.2016 and 24.03.2017 rejecting the appeal-representation filed by the petitioner and upholding the order of his termination.

The petitioner was appointed on the post of Deputy executive Engineer by the respondent-Company on 02.02.2015. The services of the petitioner were terminated by an order dated 20.05.2016 on the ground that the experience certificate tendered by the petitioner was false and the petitioner did not possess the requisite experience for appointment to the post of Deputy Executive Engineer. The petitioner and some other similarly situated Deputy Executive Engineers had filed writ petitions challenging the order of termination. Since the termination of the employees was effected without serving a show cause notice on them, the writ petitions were partly allowed and the petitioner and other employees were permitted to tender material before the respondent-Company to point out that they possessed the requisite experience and if the respondent-Company was satisfied about the same, the orders of their termination could be set aside. After the writ petition filed by the petitioner was partly allowed, the petitioner sought some information from Gammon India (earlier Trans Rails) whether the

petitioner had worked before his employment with Trans Rails (now Gammon India) but Gammon India denied that the petitioner had worked with Trans Rails from 10.10.2006 till 18.04.2009, as claimed by the petitioner. The petitioner then sought further information under the Right to Information Act and it is the case of the petitioner that the petitioner became aware that he was not the employee of Trans Rails (now Gammon India) but was the employee of a contractor, viz. Biswanath Dutta who had entered into a contract with Trans Rails. According to the petitioner, he had produced the certificate issued by Gammon India, dated 01.06.2016 that Shri Biswanath Dutta was engaged by Trans Rails as a contractor. The petitioner also produced a certificate issued by Shri Biswanath Dutta, dated 05.10.2015 that the petitioner had worked on daily wages from 10.10.2006 to 22.01.2008 in Trans Rails (now Gammon India). Though the petitioner had produced the aforesaid two certificates, the respondent-Company disbelieved the claim of the petitioner in regard to his experience and rejected his representation by the impugned orders. The orders of the respondent-Company are challenged by the petitioner in the instant petition.

On a reading of the impugned orders, we find that there is no scope for interference with the said orders in exercise of the writ jurisdiction. The respondent-Company has recorded cogent reasons for rejecting the claim of the petitioner. The petitioner had earlier claimed to be the employee of Trans Rails (now Gammon India) but after the matter was remanded by this Court, the petitioner claimed to be the daily-waged employee of Biswanath Dutta, who was engaged as a sub-contractor for the foundation work by the Trans Rails. The respondent observed that the petitioner was not aware even of the fact that he was employed by Shri Biswanath Dutta and not by Trans Rails. Also, we find that though the petitioner claimed to have been appointed by Trans Rails for the period from 10.10.2006 to 18.04.2009, as per the

certificate of Shri Biswanath Dutta, the petitioner was working on daily wages only from 10.10.2006 to 22.01.2008. We find that Shri Biswanath Dutta had issued the certificate in favour of the petitioner on 05.10.2015, after the petitioner was appointed by the respondent-Company as a Deputy Executive Engineer on 02.02.2015. It is the case of the petitioner that the petitioner had made an enquiry after his termination under the Right to Information Act but the certificate appears to have been issued in favour of the petitioner before his termination. It appears that the petitioner had tried to make a show that the petitioner was appointed in Trans Rails (now Gammon India) by producing the certificate of Shri Biswanath Dutta dated 05.10.2015. The respondents rightly held that while applying for the post of Deputy Executive Engineer, the petitioner had produced the certificate issued by Gammon India Limited and after the matter was remanded by this Court, the petitioner had submitted the certificate issued by Shri Biswanath Dutta as Gammon India Limited had clearly informed the respondent-Company *vide* communication issued on 27.07.2015 that the petitioner had never worked with the said Company and a certificate was never issued by the company to the petitioner. We do not find any reason to interfere with the findings recorded by the respondent-Company while rejecting the representation of the petitioner.

In the result, the writ petitions are dismissed with no order as to costs.

JUDGE

JUDGE

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