

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2906 OF 2018

RAVINDRA GANSING SONAWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Salgare Vitthal G.

AGP for Respondents No. 1 to 5 : Mr. S. G.

Karlekar

Advocate for Respondents No. 6 & 7 : Mr. Vivek

Bhavthankar

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 11th FEBRUARY, 2019

PER COURT :

1. The contention of the petitioner is that the petitioner was working since the year 1996 on an admissible post, however, the petitioner was not given approval only on the ground that though the post was admissible it was not sanctioned. In the year - 2014 because of the voluntary retirement of one Mr. D. S. Panpole, the sanctioned post also became vacant. The petitioner was accommodated on the said post of 'Peon', however, the approval is

rejected.

2. One of the ground for rejection of the approval is petitioner was aged 45 years in the year-2014, and that there are surplus peons, so also, provisions of Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 are not followed.

3. We have heard Mr. Salgare, learned Advocate for the petitioner, Mr. Karlekar, learned Assistant Government Pleader for respondents no. 1 to 5 and Mr. Bhavthankar, learned Advocate for the institution.

4. Mr. Bhavthankar, learned Advocate for the institution does not dispute that the petitioner has rendered the service since the year-1996 as 'Peon' and the post was admissible, it was not sanctioned and in the year 2014 the sanctioned post became vacant, the petitioner is accommodated therein.

5. In case the petitioner is working since the year-1996 with the respondent / institution on a post that was admissible though not sanctioned, then the long service and experience of the petitioner requires to be considered as per proviso to Rule 4-a of Rule 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

6. The powers vest only with the Deputy Director of Education.

7. In the light of above, we set aside the impugned order. The Deputy Director of Education shall consider the relaxation of age in case of the petitioner. The Deputy Director of Education shall consider as to whether the petitioner has rendered service from the year 1996 till 2014 after hearing the petitioner and the institution, after considering the record and if it is found that the petitioner worked on an admissible post since the year 1996 and was continuously

working up to the year-2014, then shall consider the case of the petitioner for relaxation of the age.

8. If the order is passed by the Deputy Director of Education giving benefit of relaxation of age to the petitioner, then the Education Officer shall consider the proposal seeking approval to the appointment of the petitioner afresh and shall consider the service rendered by the petitioner on its own merits.

9. The Deputy Director of Education shall take decision expeditiously and preferably within a period of three (03) months.

10. Writ Petition accordingly stands disposed of.
No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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