

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

WRIT PETITION NO.3328 OF 2010

1. Vitthal s/o. Sukhdev Rokade,
Age : 40 years, Occ. Service,
r/o. Plot No.64, Sagar Niwas,
Ex-Serviceman Colony,
Padegaon,
Tq. and Dist. Aurangabad ..Petitioner

Vs.

1. The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya,
Mumbai – 32
2. The Commissioner of Land Record,
Maharashtra Sttae, Pune
3. The Deputy Director of Land Record,
Aurangabad Division,
Damadi Mahal,
Near Panchayat Samiti,
Aurangabad
4. Sambhaji Sahebrao Chavan,
Age : 46 years, Occ. Ex-Servicemen,
r/o. c/o. K.N.Khandagale,
Ex-Servicemen Colony, Padegaon,
Tq. and Dist. Aurangabad .. Respondents

Mr. S.K.Shinde, Advocate for petitioner
Mr. S.G.Karlekar, AGP for respondent nos. 1 to 3
Mr. V.D.Gunale, Advocate for respondent no.5

**CORAM : PRADEEP NANDRAJOG, C.J. &
R.G. AVACHAT, J.
DATE : SEPTEMBER 24, 2019**

PER COURT :-

1. Heard learned Counsel for the parties.
2. An ex-serviceman who joins regular civil service ceases to be an ex-serviceman for the purpose of further employment. Law would require status of said person to be treated as a person holding a civil post. This is not in dispute.
3. Fight is for the post of Surveyor/Clerk-cum-Typist reserved for ex-serviceman. The petitioner applied for the post and sought benefit of reservation as an ex-serviceman informing that he had been appointed as a Forest Guard in quota for an ex-serviceman but claimed that in view of the Government Resolution dated

30.12.1991, his status would be of an ex-serviceman became his appointment as Forest Guard was not permanent and against a permanent post.

4. What fell for consideration before the Tribunal was the letter offering the appointment to the petitioner as a Forest Guard, which is dated 01.04.2008.

5. Fourth respondent was applicant before the Tribunal and he questioned the writ petitioner being offered appointment to the post of Surveyor/Clerk-cum-typist.

6. The Tribunal interpreted the petitioner's letter offering appointment as a Forest Guard as offering permanent appointment against a permanent post. In paragraph 10 of the impugned order, the Tribunal has held :-

“10. It is seen from the appointment order of his earlier posting, that appointment of respondent No.4 was on a temporary post and

the appointment order did not mention that in case the post is abolished, his appointment would be terminated .”

7. The letter offering appointment to the petitioner is in Marathi dialect and the relevant part thereof translated in English, reads:-

“Shri Rokade Vitthal Sukhdev is appointed as a Forest Guard in the pay-scale of ₹.2750-70-3800-75-4400 on ad-hoc and temporary basis.”

8. The appointment is clearly stated to be on *ad-hoc* as well as temporary basis.

9. Condition No.4 of the letter offering appointment, translated in English, reads :-

“ The post is temporary and if the same is abolished, he would cease to be in service.”

10. Condition No.5 of the letter offering appointment, translated in English, reads as under :-

“That if his service is no longer required, the same would be liable to be terminated without any prior notice.”

11. Thus, it is apparent that the view taken by the Tribunal is incorrect.

12. We note that by the impugned judgment, appointment of one Bhausahab Dadarao Salunke has also been set aside. Even he has filed a Writ Petition. The issue qua him would be decided in the Writ Petition filed by him.

13. Thus, as regards instant petition, we allow the same and set aside the impugned order dated 05.04.2010 passed by Maharashtra Administrative Tribunal in Original Application No.313 of 2009 in so far as it has quashed appointment of the writ petitioner to be

appointed as a Surveyor/Clerk-cum-Typist. Rule made absolute accordingly.

[R.G. AVACHAT, J.]

[CHIEF JUSTICE]

kbp