

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

WRIT PETITION NO.12208 OF 2018

Shaikh Asif Saheblal

.. Petitioner

Versus

The State of Maharashtra
through its Secretary,
Urban Development
Department, Mantralaya,
Mumbai and ors.

.. Respondents

Mr Shrimant Mundhe, Advocate for petitioner

Mr P.S. Patil, Addl.G.P. For respondent no.1

Mr A.R. Vaidya, Advocate for respondents no.2 and 3

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 21.09.2019

ORAL ORDER :

1. Mr Mundhe, learned Counsel for the petitioner submits that the petitioner was appointed as a Peon in the year 2014 on compassionate ground. The petitioner at the relevant time was entitled to be appointed as Junior Clerk. He was 10th passed and the person to be appointed on the post of Junior Clerk-cum-typist had six months time to pass the necessary typing examination. The junior to the petitioner in the list maintained for appointing the persons on compassionate ground was given appointment of Class III post. The petitioner is discriminated. According to the learned Counsel, today also posts of Class III are vacant. The petitioner needs to be promoted on Class III post.

2. Mr Vaidya, learned Counsel for respondents no.2 and 3 submits that at the relevant time, the petitioner did not possess the qualification for being appointed on Class III post.

3. We have considered the submissions. For a person to be appointed on the post of Clerk-cum-typist and more particularly, on compassionate ground, the candidate was required to pass the necessary typing examination within six months after his appointment as a Clerk-cum-typist. The petitioner was never appointed as Clerk-cum-typist. He was appointed as a Peon. The petitioner possessed the minimum qualification required to be appointed on Class III post. Now, the petitioner holds qualification of MS-CIT, typing in Marathi and English.

4. The reason, it appears, for not appointing the petitioner at relevant time on Class III post was that the vacancy of Class III post was not available.

5. Now, it is admitted by the respondents that the vacancy exists of Class III post.

6. In view of that, if the petitioner possesses the necessary qualification and otherwise eligible, the respondents shall promote the petitioner on Class-III post as per the seniority list. Said process shall be undertaken expeditiously.

7. Writ Petition is accordingly disposed of. No costs.

(ANIL S. KILOR, J.)

(S.V. GANGAPURWALA, J.)