

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

982 WRIT PETITION NO.13689 OF 2019

ANIKET UTTAMRAO JONDHALE
VERSUS
THE UNION OF INDIA AND ANOTHER

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Advocate for Petitioner : Mr. Tambe Rahul A.
AGP for Respondent-State : Mr. V. M. Kagne.
Advocate for Respondent Nos.1 & 2 : Mr. Nagode D.G.

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**CORAM : S.V. GANGAPURWALA AND
AVINASH G. GHAROTE, JJ.**

DATE : 11.12.2019

PER COURT :-

1. Mr. Tambe, the learned counsel submits that the petitioner was selected and kept in the wait list for the post of Junior Office Assistant at B-3 Level. On 18.01.2019, appointment letter was issued to the petitioner. The petitioner was required to produce the character certificate. The petitioner was acquitted in the Criminal case on 13.11.2019. The petitioner produced the character certificate on 22.11.2019. The learned counsel submits that the respondents are not allowing the petitioner to join although all the terms and conditions are complied with.

2. Mr. Nagode, the learned counsel for the respondents submits that the petitioner was selected and kept in the wait list as per clause 15.2 of the SPMCIL Recruitment Policy - 2012. The waiting list is valid only for one year. In the present case, the wait list was prepared on 31.10.2018 and the life of the wait list is upto 31.10.2019. The learned counsel submits that the shelf life of the wait list is only for one year. In view of clause 15.2, the case of the petitioner cannot be considered after 01.11.2019. The petitioner produced the character certificate only on 22.11.2019. There are no powers to extend the shelf life of the wait list as per clause 15.2 of the Recruitment Policy - 2012.

3. We have considered the submissions. The factual matrix is not disputed. The petitioner was selected and kept in the wait list for the post of Junior Office Assistant B-3 Level. It appears that the person in the select list did not join. The petitioner was issued with the offer of appointment on 18.01.2019 subject to the acceptance of offer and terms and conditions thereof. The petitioner was required to report for the duty between 18.02.2019 to 23.02.2019.

4. The petitioner could not get the character certificate as per the terms and conditions, in view of the pendency of the criminal case against him. The petitioner is acquitted in the criminal case on 13.11.2019 and secured the character certificate on 22.11.2019 and

forwarded it to the respondents authority.

5. On 15.10.2019, the petitioner is communicated (Page 30) that the wait list would be expiring in the month of October 2019 and the petitioner is required to submit the character antecedents certificate from the First Class Magistrate on or before 31.10.2019. If the same is not submitted, the candidature will be cancelled.

6. Reliance is placed on clause 15.2 in the said communication.

7. We find that reliance on clause 15.2 of Recruitment Policy-2012 is mis-placed. The shell life of the wait list is one year. The petitioner is issued the offer of appointment. The petitioner no longer remains the candidate of the wait list but is issued the letter of appointment. The operational period of one year for wait list would no longer be an impediment for the petitioner. The petitioner has already been issued with the offer of appointment. As such, the operation of wait list would not be a factor to be considered while considering the case of the petitioner. In the impugned communication, the respondents have directed the petitioner to submit the character antecedents certificate as per the offer letter dated 18.01.2019 for joining on or before 31.10.2019. It was not in the hands of the petitioner to get the same because of pendency of the criminal case. The petitioner has been acquitted in the Criminal Case on 13.11.2019 and has submitted the character certificate on

22.11.2019. The same is forwarded to the respondents.

8. In light of the above, we quash and set aside the impugned communication. In case, there is no other impediment, then the respondents shall consider the character certificate submitted by the petitioner for the purpose of joining the service.

9. Writ petition is accordingly allowed. No costs.

(AVINASH G. GHAROTE, J.)

(S.V. GANGAPURWALA, J.)

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