

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

20 WRIT PETITION NO.1154 OF 2020

**MAHAVIR MAROTRAO BHUMKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr Nagargoje Ankush N.
AGP for Respondents: Mr S. B. Narwade
Advocate for respondent Nos.3 & 4. Mr. S.B.Pulkundwar

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 20th January, 2020

ORDER:

1. We have heard Mr. Nagargoje, the learned counsel for the petitioner.

2. The learned counsel submits that the petitioner was working with the Grampanchayat since the year 1985. As per Circular dated 03.04.2005 10% reservation is provided to the persons employed with Grampanchayat for employment with Zilla Parishad. The petitioner was eligible to be employed with the Zilla Parishad in the year 2009. However, the respondents illegally did not consider the case of the petitioner and juniors to the petitioner were appointed. The petitioner filed writ petition before this Court. This Court under order dated 08.05.2015 in writ petition No. 5061 of 2014 directed the respondents to grant employment to the petitioner with the Zilla Parishad. The Court observed that it was an illegal act on the part of respondents in denying the appointment to the petitioner with Zilla Parishad.

3. According to the learned counsel, petitioner's services with the Grampanchayat are required to be considered for the purpose of pension or at least the services from 2009 be considered for further purposes.

4. Employment with Grampanchayat is not a pensionable service. The Grampanchayat has its own Rules. It is by virtue of executive instructions, a policy has been framed, wherein 10% posts in Zilla Parishad are reserved for persons employed with Grampanchayat. It appears that this Court came to the conclusion in the earlier petition bearing Writ Petition No. 5061/2014 that the petitioner ought to have been considered in the year 2009, however, the persons junior to the petitioner were considered for interview and the petitioner was not. This Court in the said judgment directed to appoint the petitioner on a vacant post and if no post is vacant, then on the first available vacant post.

5. The seniority, continuity and the date of appointment of the petitioner would be the date, the petitioner was issued with the appointment order and the petitioner joined the service. Retrospective effect to it cannot be given. Moreover, the petitioner was issued with the appointment order for the first time in the year 2015.

6. For all aforesaid reasons, the service rendered with the Grampanchayat will not be considered nor the date of appointment can be considered to be of the year 2009.

7. The matter can be viewed from other pedestal. It is not that all employees in the Grampanchayat are to be appointed with the Zilla Parishad. Interviews are conducted and thereafter only the orders are issued. What would be the result of the interview would depend upon the decision of the selection committee at that time. The petitioner was considered for the first time in the year 2015.

8. In light of above, the the grievance put forth by the petitioner cannot be considered. Writ petition as such disposed of. No costs.

9. Learned counsel for the petitioner submits that the date of birth of the petitioner is 7.05.1964 and the same ought to be considered. There is nothing on record to suggest that the respondents are considering some other date as date of birth of the petitioner. If the petitioner is aggrieved by any such act, it is for the petitioner to agitate it independently.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC