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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 1387 OF 2020

Dhareppa Revansiddha Mhetre ... Petitioner

V/s.

The State of Maharashtra through the
Principal Secretary (Revenue) ... Respondent

Mr. R.M. Haridas i/b. Prasad P. Kulkarni for the Petitioner

Mr. R.S. Pawar, AGP for the Respondent

***CORAM : NITIN JAMDAR &
M.S. KARNIK, JJ.***

DATE : 18 FEBRUARY 2020.

P.C. :-

The Petitioner was appointed as Naib Tahasildar Group - B on a probation basis on 8 November 2007 in the services of the Respondent – State of Maharashtra. The Petitioner's services were terminated by order dated 21 October 2015. The Petitioner filed the Original Application No. 704 of 2016 in the Maharashtra Administrative Tribunal and by the impugned order dated 26 October 2018, the application was rejected. The primary ground on

which the Petitioner's services as probationer were brought to an end was his failure to pass the departmental examination.

2. The Naib Tahasildar Group-B Recruitment Rules 1998 provides as under :-

“(1) A person appointed to the post by nomination shall be on probation for a period of two years, during that period he shall undergo such training and pass such Departmental Examinations as may be prescribed by Government in that behalf.

Provided that Government may extend the probationary period of a probationer, who has not passed such examination or has not completed the probationary period to the satisfaction of Government, for such further period not exceeding one year in the aggregate.

(2) A Naib Tahsildar on probation who does not pass the prescribed Departmental Examinations or who fails to complete the probationary period specified in sub-rule (1) shall be discharged from service.

A person appointed to the post shall also be required to pass the examinations in Hindi and Marathi according to the rules made in that behalf, unless he has already passed or has been exempted from passing these examinations.”

The Petitioner did not clear the examination as stipulated in the above Rules. Even during the extended period, the Petitioner failed to do so. The contention of the learned Counsel for the Petitioner

that the fact that the Petitioner was allowed to work thereafter, afforded the Petitioner with an additional chance to pass departmental examination. This submission cannot be accepted as there is no such stipulation in the Rules. The Tribunal has rightly observed that there is no concept of deeming fiction in this case.

3. In the circumstances, there is no error in the view taken by the Tribunal. The Writ Petition is accordingly rejected.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti P.
Pawar

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by Jyoti P. Pawar
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