

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

WRIT PETITION NO.10346 OF 2021

Ganesh Anandrao Raut

.. PETITIONER

VERSUS

1]The State of Maharashtra
Through its Secretary, Department
of Energy, Mantrayala, Mumbai

2]The Chief General Manager (HR)
Maharashtra State Electricity
Distribution Company Ltd. Prakash
Gad,Plot No.CE block Bandra Kurla
Complex, Bandra,East,Mumbai

..RESPONDENTS

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Mr.PA.Kulkarni, Advocate for the petitioner
Mr.S.G.Karlekar, A.G.P for respondent no.1 State
Mr.U.S.Malte,Advocate for respondent no.2.

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**CORAM : DIPANKAR DATTA, CJ &
MANGESH S. PATIL, J.**

DATE : 30/09/2021

PC. :-

1] Distribution Franchisee Agreement (hereafter “DF agreement”, for short) for Aurangabad was executed by and between the Maharashtra State Electricity Distribution Company Ltd. (hereafter “M.S.E.D.C.L.”, for short) and G.T.L. Ltd. on 23rd February, 2011 for a period of 15 years. In terms thereof, G.T.L. Ltd. started providing service for the distribution of power at

Aurangabad from 1st May 2011; however, subsequently dispute having arisen by and between the parties, M.S.E.D.C.L. terminated the DF agreement on 10th November 2014, to be effective from 17th November 2014.

2] It is not in dispute that the petitioner was a contractual employee of GTL Ltd. As a result of termination of the DF agreement, as aforesaid, the petitioner was rendered jobless. He approached the labour court, where proceedings are stated to be pending.

3] An advertisement bearing no.7/2016 was issued by M.S.E.D.C.L for recruitment to (2542) vacancies of operating cadre staff. Last date for submission of online applications was 28th August, 2016. Some of the workmen, like the petitioner, who were engaged by GTL Ltd., presented W.P No.8951 of 2016 before this Court claiming relief as follows :

“b) By an order of this Hon’ble Court, direct the respondent authorities to give appointment to the present petitioners for the post of Technical operator as per the advertisement no.7/16 dated 1st of August 2016.

c) The Hon’ble Court be pleased to direct the respondents to relax the age limit for the present petitioners who were working with G.T.L. and accept the forms.”

4] The said writ petition was disposed of on 20th August, 2016 by a coordinate Bench of this court by passing the following order :

“1 It would be open for the petitioners to tender appropriate representation to the employer for consideration of their claim sympathetically. If such representation is made, the respondent Company may consider the same.

2 With liberty as aforesaid, the writ petition is dispose of.”

5] After disposal of the said writ petition, a notice was issued by Mr. P.A.Kulkarni, advocate on 10th February 2017. It is sought to be argued before us that such notice was sent on behalf of the clients of Mr.Kulkarni, including the petitioner, although the names of the clients are absent. It referred to a representation dated 27th September, 2016 that had been submitted before M.S.E.D.C.L. Grievance was expressed that an earlier representation had not been considered. Even after receipt of such notice of Mr.Kulkarni, M.S.E.D.C.L did not care to respond.

6] Be that as it may, soon thereafter, M.S.E.D.C.L issued a fresh advertisement bearing no.5 of 2019 thereby inviting applications for the post of Assistant Electrician and Technical Operator. Aggrieved thereby, the petitioner has instituted the present proceedings claiming *inter alia* the following reliefs :

“b) By an order of this Hon’ble Court, direct the respondent authorities to give appointment to the present petitioners for the post of Technical operator

as per the advertisement No.5/19 dated 10th July 2019.

c) Pending hearing and final disposal of this writ petition the respondents may be directed to keep one post vacant in the recruitment procedure of the advertisement No.5/19 dated 10/07/2019.”

7] We have heard learned advocates for the parties.

8] It is well settled that a litigant may approach the writ court for enforcement of a legally protected right. In the present case, we are unable to trace any right of the petitioner, enforceable against M.S.E.D.C.L. No right of the petitioner has been infringed by it giving rise to a legal wrong. Admittedly, the petitioner was a contractual employee of G.T.L. Ltd. He was never employed by M.S.E.D.C.L. No privity of contract existed between the two. It appears that M.S.E.D.C.L had issued two advertisements, one in 2016 and the other in 2019. If indeed the petitioner was possessing the requisite qualifications for appointment on any of the advertised posts, but was age barred, as has been submitted by Mr.Kulkarni, nothing prevented him from approaching the Court with a prayer for a direction on M.S.E.D.C.L to consider his candidature upon condonation of the age bar having regard to the peculiar features of the case that the DF agreement stood terminated and the petitioner rendered jobless. The very fact that the petitioner was in deep slumber, apart from non-existence of any legally protected right entitling him to claim any relief, disables us from coming to his rescue.

9] There is no merit in the writ petition. It is dismissed. No costs.

[MANGESH S. PATIL, J.]

[CHIEF JUSTICE]

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