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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7912 OF 2021

Hanuman B. Waghmare	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mrs.Pranita P. Hingmire for the Petitioner.

Sujshma S.Bhende, AGP for the State – Respondent Nos.1 to 3.

Mr.Rakesh P. Saroj for the Respondent Nos.4 and 5.

CORAM : R.D. DHANUKA &
R.N. LADDHA, JJ.
DATE : 21ST DECEMBER, 2021.

P.C. :-

1. Rule. Learned AGP waives service for the respondent nos.1 to 3. Mr.Saroj waives service for the respondent nos.4 and 5. By consent of parties, the petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the orders dated 24th May, 2021 and 7th July, 2021 refusing to grant approval to the appointment of the petitioner as a Peon on the ground that the appointment of the petitioner was not in accordance with the Government Resolutions dated 28th January, 2019, 7th March, 2019 and 11th December, 2020.

3. Admittedly the petitioner was appointed as a Peon on 1st

July, 2007 in the respondent no.3 by the respondent no.4. The respondent no.4 has submitted the proposal for seeking approval to the appointment of the petitioner to the respondent no.3 on 2nd July, 2007 and thereafter on 26th March, 2012. The said proposals remained pending till October, 2018. The petitioner was required to file Writ Petition No.4876 of 2018 in this Court. The said writ petition was disposed of by this Court. The petitioner filed the representation on 17th May, 2018, 2nd November, 2019 and 26th November, 2019. The respondent no.3 however rejected the proposal to approve the appointment of the petitioner on 24th May, 2021.

4. In our view, the Government Resolutions pressed in service by the respondent no.3 in the impugned order are subsequent to the date of appointment of the petitioner and are not applicable with retrospective effect. The impugned orders dated 24th May, 2017 and 7th May, 2021 are *ex-facie* illegal, perverse and contrary to law.

5. We therefore, pass the following order :-

a). The writ petition is allowed in terms of prayer clause (a). The respondent nos.2 and 3 are directed to consider the proposals submitted by the Management for approval of the petitioner to the post of Peon from 1st July, 2007 and to pass appropriate order in accordance with law within four weeks from today.

- b). If the proposal is accepted by the respondent nos.2 and 3, the name of the petitioner shall be included in the Shalarth Pranali within two weeks from the date of granting approval and consequential benefits to the petitioner within four weeks from the date of entering the name of the petitioner in Shalarth Pranali.
- c). If the proposal is rejected, the petitioner would have liberty to file appropriate proceedings.
- d). The writ petition is disposed of in aforesaid terms. Rule is accordingly discharged. There shall be no order as to costs. The parties to act on the authenticated copy of this order.

(R.N. LADDHA, J.)

(R.D. DHANUKA, J.)

VASANT
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