

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4701 OF 2021

RAVI YADGIRI PERUKA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. O. B. Boinwad
AGP for Respondent Nos. 1 to 3: Ms. M. A. Deshpande
Advocate for Respondent Nos.4 & 5: Mr. D. G. Nagode

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CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATED : 28 JUNE 2022.

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P. C. :

Heard finally by consent of the parties.

2. By this petition as originally filed, the petitioner is challenging the order dated 18 January 2020 passed by respondent no.3 Education Officer refusing to grant approval to the petitioner's appointment as a peon.

3. The petitioner was appointed as a peon in the respondent-school on compassionate basis on account of the fact that his father had died in harness. It transpires during the course of the hearing that during the pendency of this petition, the Education Officer by an order dated 23

February 2022 has granted approval to the appointment of the petitioner initially for a period of 3 years with effect from 11 June 2016 on a consolidated salary of Rs.1700/- per month. The learned counsel for the petitioner submitted that the Education Officer is not justified in granting the sanction on a consolidated salary. In the submission of the learned counsel, the petitioner ought to have been granted approval on a regular basis and regular pay scale.

4. Learned AGP placing reliance on the Government Resolution dated 25 November 2005 submits that in the event a full time post of a class-IV employee is filled, for initial period of 3 years, he will be entitled to receive consolidated salary / honorarium of Rs.1700/- per month and thereafter the regular pay scale would be admissible to such employee.

5. We have heard the learned counsel for the parties.

6. The learned counsel for the petitioner strenuously urged that the appointment on compassionate basis if made, cannot govern itself by the Government Resolution dated 25 November 2005. In the submission of the learned counsel, as the petitioner, was appointed on a compassionate basis, he ought to have been granted approval from the

date of his appointment on regular basis in an admissible pay scale. In support of the said submission, the petitioner has relied upon the decision of this court in *Pratibha Niketan Education Society and another vs. The State of Maharashtra in Writ Petition No.1567 of 2018* and *others* decided on 17 November 2021 and the decision in *Smt. Yogita w/o Shivsing Nikam vs. The State of Maharashtra and others in Writ Petition No.4219 of 2018* decided on 11 August 2021. He also submitted that there are instances where the Education Officer has granted approval to such appointments on regular basis from the date of such appointments.

7. The learned AGP submits that the appointment on compassionate basis is also governed by the Government Resolution dated 25 November 2005 and there are specific provisions pertaining to Class-IV appointments. It is submitted that in none of the decisions cited on behalf of the petitioner it has been held that such appointments have to be approved from the date of appointment on a regular pay scale.

8. We have carefully considered the rival circumstances and submissions made. The appointment on compassionate basis, only differs from the regular employment in the manner of entry into service.

Once a person enters the service on the basis of an appointment on compassionate basis, he ought to be governed by the terms and conditions of the employment as are applicable to the regularly recruited employees. The Government Resolution dated 25 November 2005 clearly stipulates that in the event of post of a Class-IV employee being filled up, for the initial period of three years, he will be paid an honorarium of Rs.1700/- per month and only after completion of the period of three years, the regular pay scale will be admissible to him. It is not possible to accept the contention on behalf of the petitioner that in case of compassionate employment, the incumbent is entitled to get such approval on regular pay scale from the date of appointment. In our view, if such a contention is accepted, it would be placing the appointment / employment on compassionate basis on a higher pedestal than the employment through regular recruitment process. No provision has been brought to our notice to show that an appointee on compassionate basis, is to be treated differently than a regular appointee.

9. Reliance placed on behalf of the petitioner on the decisions of this court as above, in our view is misplaced, in as much as, in none of these

cases the issue as raised in this petition fell for consideration of the Division Bench of this court.

10. At this stage, the learned counsel for the petitioner submitted that even after completion of three years, with effect from 11 June 2016, the Education Officer has not granted approval on a regular basis and in a regular pay scale. The learned AGP submits that such an order has to follow after the period of three years. The statement so made is accepted.

11. We hope and trust that the Education Officer considers grant of approval to the petitioner on completion of three years from 11 June 2016 on a regular pay scale. With this, the petition is disposed of.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

VS Maind/-