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

**906 REVIEW APPLICATION (CIVIL) NO.67 OF 2021
IN WP/3114/2019**

The Zilla Parishad, Beed
Thr Its Authorised Officer
Jaylal Hiralal Rajput

.. Applicant

Versus

The State Of Maharashtra
Thr The Secretary and Others

.. Respondents

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Advocate for Applicant : Mr. Prashant D. Suryawanshi
AGP for the Respondents / State : Mr. B.V. Virdhe

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WITH
CIVIL APPLICATION NO.9029 OF 2021
IN
REVIEW APPLICATION (CIVIL) NO.67 OF 2021
WITH
CIVIL APPLICATION NO.9028 OF 2021
IN
REVIEW APPLICATION (CIVIL) NO.67 OF 2021

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CORAM : MANGESH S. PATIL, J.

DATE : 16-02-2022

PER COURT :

. Heard learned advocate Mr. Suryawanshi for the applicant.

2. The applicant is seeking review of the judgment and order passed by this court in Writ Petition bearing No. 3114 of 2019

dated 16-12-2020 wherein the applicant was respondent no.3.

3. Respondent no.3 herein by name Bhalchandra Kamlakar Kulkarni had filed that writ petition impugning the order passed by the learned Additional Divisional Commissioner, Aurangabad i.e. respondent no.2 dated 30-11-2018 dismissing his appeal preferred under Rule - 14 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules 1964 (in short, "Rules").

4. As can be gathered, initially respondent no.3 – Bhalchandra was appointed as a peon in group 'D' cadre on compassionate ground in the employment of zilla parishad by the order dated 06-12-2004. At that time, he was holding a bachelor's degree. Subsequently, he acquired further qualification of B.Ed. in the year 2008 and M.Ed. in the year 2010. He then made a request to his superiors to accommodate him in group 'C' cadre. For that purpose, he even filed Writ Petition bearing No.4810 of 2013. By the order dated 29-08-2013, the then Chief Officer of the Zilla Parishad who was respondent no.3 in that writ petition, was directed to consider his request.

5. Pursuant to such a direction, the respondent –

Bhalchandra was appointed as a Cluster Head in group 'C' cadre by the order dated 25-10-2013.

6. By a communication dated 21-09-2015, a show cause notice was served to respondent - Bhalchandra calling upon him as to why he be not reverted to the group 'D' cadre as his case was not covered by the Government Resolution dated 23-08-1996 as he was not holding the requisite qualification for group 'C' post on the date of his initial appointment. After he replied to the notice, his appointment to the group 'C' cadre was cancelled holding it to be contrary to the Government Resolution dated 23-08-1996. Being aggrieved and dissatisfied by his such reversion, he filed Writ Petition bearing No.11917 of 2015. It was allowed to be withdrawn granting him liberty to prefer an appeal under Rule 14 of the Rules. Pursuant to such a liberty, he chose to file the appeal which was dismissed. He then filed the writ petition on which the order sought to be reviewed was passed.

7. Bearing in mind the fact that this is an application for undertaking a review of the judgment and order passed by this court, the powers of this court are indeed circumscribed by the limitations put by the wording of section 114 of the Code of Civil Procedure. It

cannot be allowed to be argued as an appeal in disguise.

8. Bearing in mind such a limitations if one goes through the judgment and order passed by this court, it is not that by holding that the order of reversion was illegal that the writ petition was allowed, but it was allowed on equitable grounds by taking into consideration the fact that respondent - Bhalchandra had already served and had gathered necessary expertise by working in group 'C' cadre as a Cluster Head. In exercise of the writ jurisdiction, by observing that once having acquired the necessary qualification to work on that post and had even gathered experience, the applicant – Zilla Parishad was directed to accommodate him on the post of Cluster Head or on an equivalent post.

9. If such is the state-of-affairs, merely because, as is being submitted by the learned advocate for the applicant, the direction of this court could have a cascading effect inasmuch as the respondent - Bhalchandra would now be superseding some of his seniors in group 'D' cadre, in my considered view, cannot be the reasonable and appropriate ground to enable this court to exercise its writ jurisdiction.

10. There is no merit in the review petition and it is liable to be dismissed and is accordingly dismissed.

11. In view of disposal of the review petition, nothing survives for consideration in the pending Civil Application Nos.9028 of 2021 and 9029 of 2021 and the same stand disposed of accordingly.

(MANGESH S. PATIL)
JUDGE

Gajanan