

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

WRIT PETITION NO. 5918 OF 2020

Amol Babasaheb Naikwadi .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Sujeet D. Joshi, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for the Respondent No. 1.

Shri V. V. Gujar, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 14TH FEBRUARY, 2022.

FINAL ORDER :

. Mr. Joshi, the learned advocate for the petitioner submits that, the petitioner is qualified person. The father of the petitioner was working as a Live Stock Supervisor. While in service he died. The petitioner possesses qualification of diploma in civil engineering. The petitioner applied for appointment on compassionate ground. The respondent No. 2 offered the petitioner post of Gram Sevak. At the relevant time the petitioner was in dual state of mind. He was claiming the post of Civil Engineering Assistant. As he was claiming post of civil engineering assistant and under misconception the petitioner did not accept the post of Gram Sevak. The petitioner is in need of employment. The petitioner had not with full consciousness refused the post of Gram Sevak, but it was only on the ground

that the petitioner may be offered post of Civil Engineering Assistant as per his qualification, the petitioner did not join. The petitioner is ready to accept even the post of Gram Sevak. The petitioner also possesses the qualification of the post of Gram Sevak.

2. Mr. Gujar, the learned advocate for the respondent No. 2 and the learned Assistant Government Pleader for the respondent No. 1 submit that, the contention of the petitioner that he was not knowing the further consequences and modalities is not correct. All the 140 participants who were considered for appointment on compassionate ground were made aware of consequences prior to starting the process of counseling. The letter given by the petitioner of refusal to accept the appointment of Gram Sevak was taken by the respondent No. 2 after the petitioner was made aware of the rules and regulations. The petitioner was not pressurized for giving in writing the refusal to accept the post.

3. In case the petitioner consciously refuses to accept a particular post, then certainly, he would not have a claim on the said post.

4. In the facts of the present case, the petitioner appears to be unemployed person. He had filed application for appointment on compassionate ground upon death of his father in the year 2014. At that time probably the petitioner was of 22 years of age. The

petitioner was possessing qualification of diploma in Civil Engineering and was qualified for appointment to the post of Civil Engineering Assistant. However, it appears that, the petitioner was offered the post of Gram Sevak and on the premise that he would get appointment of Civil Engineering Assistant on compassionate ground had probably not accepted the post of Gram Sevak. An unemployed youth would certainly not refuse the employment consciously. It is also not brought on record that the petitioner was possessing other immovable assets or properties and income so that the petitioner was not in need of appointment.

5. The contention of the petitioner that he was in dual state of mind and he was under the impression that he would get the appointment as Civil Engineering Assistant at the relevant time, and for said reason did not accept the post of Gram Sevak appears to be probable. The petitioner has already lost three years in that process.

6. Considering the overall scenario, we had asked the learned advocate for the respondent No. 2 as to whether the posts of Gram Sevak are vacant. The learned advocate on instructions placed on record the data showing 16 posts of Gram Sevak still vacant. It is submitted that gram sevak is to be appointed on contractual basis for three years and thereafter after completing satisfactory probation and considering performance of the duties for a period of three years is granted permanency and/or made

regular.

7. In the light of the peculiar facts of the present case and observing that the earlier denial was not a conscious one, as it was under misconception that he may get the post of Civil Engineering Assistant as per his qualification and further that there are still 16 posts vacant, we are exercising our writ jurisdiction under Article 226 of the Constitution of India.

8. The respondent No. 2 shall consider the petitioner for appointment to the post of Gram Sevak. In doing so the impugned order would not be an impediment. The said process shall be completed expeditiously and preferably within a period of six (06) weeks from today.

9. In the light of the above, the writ petition is disposed of. No costs.

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb.22