

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

WRIT PETITION NO.9359 OF 2019

Prashant Madhavrao More

... **Petitioner**

... **Versus** ...

The Union of India and others

... **Respondents**

...

Mr. N.L. Choudhari, Advocate for petitioner

Mrs. V.N. Patil-Jadhav, AGP for respondent no.1

Mr. A.D. Wange, Advocate for respondent no.3

...

**CORAM : DIPANKAR DATTA, CJ AND
 VIBHA KANKANWADI, J.**

DATE : NOVEMBER 14, 2022

PER COURT :

1 Maharashtra State Road Transport Corporation initiated a process sometime in the year 2014 to fill up various vacant posts in its establishment. One of the posts was 'Body Fitter' and two vacancies were advertised: one vacancy was reserved for Scheduled Caste candidates and the other was an unreserved vacancy. Petitioner, a Scheduled Caste candidate, was placed in the wait list. According to him, the appointee from the open category has left service, resulting in creation of a vacancy. He has instituted this writ petition on 15.07.2019 seeking direction to the Corporation to appoint him in the resultant vacancy.

2 The purpose of a wait list is well-known. Operation of a waiting list should be confined to the vacancies notified and not for any vacancy arising in future unless a policy decision is taken by the employer in that behalf. Reference can be made to the decision of the Supreme Court in **Gujarat State Dy. Executive Engineers Association vs. State of Gujarat**, reported in 1994 Supp (2) SCC 591.

3 Even if it is true that one of the candidates after joining has left resulting in a vacancy on the post of 'Body Fitter', that is a future vacancy and not a vacancy that was advertised in pursuance whereof the petitioner responded. Such vacancy, without any policy decision of the Corporation being brought to our notice, does not *ipso facto* create any right in favour of the petitioner to seek an appointment as a wait listed candidate, more than five years after the post fell vacant. In the interregnum, other candidates might have acquired eligibility. The Corporation would be free fill up the vacant post of 'Body Fitter' by inviting applications and in accordance with law.

4 Since the petitioner has no indefeasible right of appointment, this writ petition lacks merit. The same stands dismissed. No costs.

(SMT. VIBHA KANKANWADI, J.)

(CHIEF JUSTICE)