

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

47 WRIT PETITION NO.10965 OF 2022

KHWAJA GULAM MOHAMMAD ATHAR MOHAMMAD ABDUL GAFFAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....
Advocate for Petitioner : Ms. Kazi Fatema S.
AGP for Respondents 1 to 3: Mr. P.S. Patil
Advocate for Respondent No.4 : Mr. S.S. Bora
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 10th NOVEMBER, 2022.**

PER COURT :-

1. The petitioner has put forth prayer clause "B" as under:-

"B) By issuing writ of mandamus or any other writ or direction in like nature, the respondent No.1 to 4 may be directed to issue promotion order in favour of petitioner as Garden Supervisor and to pay the salary in pay scale of Rs. 5200-20200 of Garden Supervisor with effect from 22.07.2015 and grade pay 2800/- and the respondents be directed to consider the case of petitioner as Class-III employee since the date of appointment i.e. 23.04.2001 and to pay the difference of wages since 23.04.2001 till present moment and to grant selection grade, as the petitioner has completed more than 12 years."

2. Considering that the petitioner would fall within the definition of "Workman" under Section 2(s) of the Industrial Disputes Act, 1947, and since the petitioner claims that he had done some additional

work of garden supervisor and can be considered for selection and appointment on the post of garden supervisor, we are not entertaining this petition.

3. The petitioner submits that he would tender an application for seeking consideration of his claim for the post of garden supervisor. It is prayed that respondent No.4 may consider the said request.

4. We requested Shri Bora, the learned standing advocate, to cause an appearance on behalf of respondent No.4, since we are issuing a simple direction that, if the petitioner makes an application for appointment to the post of garden supervisor, such application may be considered alongwith other eligible candidates in the backdrop of available vacancies.

5. In view of the above, this petition is disposed off. If the petitioner tenders an application, as stated above, respondent No.4 may consider the same alongwith all other eligible candidates, subject to the requisite qualification/eligibility and available vacancies.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/