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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1219 OF 2022

Santosh Dattatray Punjal And Anr. .. Petitioners
v/s.
The State of Maharashtra & Anr. .. Respondents

....

Mr. Narendra V. Bandiwadekar, i/b. Mrs. A.N. Bandiwadekar, for the
Petitioner.

Mr. N.C. Walimbe, AGP, for State.

....

**CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.**

DATE : 22 MARCH 2022

P.C:-

Heard.

2. Rule. Rule made returnable forthwith and heard finally by
consent of parties.

3. Petitioner No.1 was appointed by Petitioner No.2 as a part-
time Peon in the Night School of Petitioner No.2 on 1 August 2012.
This appointment of Petitioner No.1 was made on compassionate basis

on the post, which fell vacant due to the death of father of Petitioner No.1. However, when approval to such appointment was sought by Petitioner No.2, Respondent No.2 refused to grant it on the ground that after death of father of Petitioner No.1, the post of part-time Peon had lapsed by virtue of application of G.R. dated 11 December 2020.

4. Reason stated in the impugned order for refusing approval to the appointment of the Petitioner, in our opinion, is not supported by the G.R. dated 11 December 2020 and also the settled principles of interpretation of statutes. Careful reading of G.R. dated 11 December 2020 shows that the G.R. itself states that a new regime regarding payment of peon allowance instead of filling up of vacancy of the post of Peon would come into effect after issuance of the G.R.. This aspect, an essential one to the whole issue, has not been considered in any manner by Respondent No.2 while issuing the impugned order. Then, this G.R. nowhere states that it would apply retrospectively to the appointments already made. Therefore, this G.R., by applying the settled principles of interpretation of statutes, has to be held as only prospective in its effect and application. This is also the view taken by another Division Bench of this Court in the case of **Mr. Shrikrishna Bhikaji Bondge vs. State of Maharashtra & Ors.**¹, by following the case of **Suman Shriram Kakad vs. State of Maharashtra and Others**².

1 Writ Petition No. 3525 of 2019, decided on 19 January 2021.

2 2011 (1) Mh.LJ 766

5. In view of above, we find that the impugned order is illegal and deserves to be quashed and set aside. The petition is, therefore, allowed in terms of prayer clauses (b) and (c).

6. We direct that the grant-in-aid for payment of monthly salary to the Petitioner with all admissible arrears shall be released within a period of two weeks from the date of issuance of the order of approval.

7. Parties to act upon authenticated copy of the order.

8. Rule is made absolute in the above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)