

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5981 OF 2018**

Smt. Lailabi Kasam Shekh

....Petitioner

Versus

The State of Maharashtra and ors.

....Respondents

Mr. R. V. Bansode, Advocate for the Petitioner.

Mr. S. B. Kalel, AGP for Respondent Nos. 1 to 5 – State.

Dr. Uday Warunjikar, Advocate for the Respondent Nos. 6 and 7.

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

DATE : 14th NOVEMBER, 2022.

P.C. :

1. The learned advocate for the petitioner submits that the selection process for the post of Anganwadi Supervisor were held in March 2003. However, the respondents did not issue appointment orders to the petitioner. They appointed ineligible persons. Writ petition was filed before this Court bearing writ petition No.178 of 2004. The Division Bench of this Court under judgment and order dated 28th February, 2006, allowed the writ petition, cancelled the appointments of those illegal persons and gave option that those petitioners who already faced the selection process in year 2003,

they may retain the marks obtained by them in the said examination and second option was also given that the candidates may appear for the fresh examination and the said marks be considered. The petitioner chose option one. The deemed date of appointment of the petitioner shall revert back to March, 2003. The learned counsel submits that no other interpretation would be possible. The entire selection process was concluded.

2. Dr. Warunjikar, learned advocate for respondent Nos.6 and 7 submits that the petition suffers from delay and laches. The petitioner was given appointment in the year 2006. The petitioner never raised any objection to the said appointment given in the year 2006 till the date of her superannuation. Two years after her superannuation, she has filed the present writ petition. The petitioner cannot get the deemed date of promotion as the selection process concluded in the year 2006.

3. We have considered the submissions. It appears that the petitioner was working as Anganwadi Sevika from the year 1990 and appeared for the examination conducted for the post of Anganwadi Supervisor. The examinations were held in March 2003. However,

the petitioner was not appointed nor it appears that the said selection of the petitioner was concluded. Some appointments were made which were challenged by the petitioner and other candidates by filing writ petition No.178 of 2004. The Division Bench of this Court under order dated 28th February, 2006 allowed the writ petition and directed the authorities to complete the selection process within six months. Paragraph Nos.2 and 3 of the operative part of the said judgment reads thus:

“(1)..

(2) In respect of the available vacancies to the post of supervisors, the respondent will invite fresh applications from amongst eligible candidates and thereafter make selection after complying with the procedure for appointment to the post of supervisors. The cut off date will be the date of the last examination for which the Petitioner had appeared.

(3) If the Petitioners who have passed examination and are not desirous of appearing for the fresh examination to be conducted for filling in the post of supervisors, they may opt not to do so. In their case the marks obtained by them in the previous examination will be considered for the purpose of evaluating their merits in the list to be

prepared for selection. From those amongst the petitioners who seek to appear for the examination de novo, their marks will be considered based on the result of the fresh examination and not based on the result of the old examination."

4. It would appear that after the order was passed by the Court, the selection process was conducted and the examination was held. The petitioner chose the first option that she was satisfied with the marks obtained by the petitioner in the examination held in March, 2003. On or about 21.8.2006, letter was issued to the petitioner inviting the petitioner for the interview. The interviews were conducted and subsequently under appointment order dated 30th August, 2006, the petitioner was appointed. The petitioner accepted the said appointment order without any demur and worked there till the age of superannuation. The present petition is filed after the petitioner has superannuated from service.

5. It would appear that the selection process cannot be said to have concluded unless the interviews are held. It does not appear that in the year 2003 select list was also prepared and that the name of the petitioner appeared in the select list. It is also trite

that mere name in the select list does not give indefeasible right to the candidate to be appointed. Be that as it may, even the petitioner does not seem to have faced the interview in the year 2003 and the petitioner was interviewed in the year 2006 and thereafter selected and appointed under the appointment order dated 30th August, 2006. The petitioner cannot claim a deemed date of appointment prior to the interview being conducted.

6. In light of all the aforesaid facts, no case for interference is made. The writ petition as such is disposed of. No costs.

(S. G. DIGE, J.)

(S. V. GANGAPURWALA, J.)