

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 1485 OF 2022

Dattatraya Dinkar Patil

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Prashant Bhavake for the Petitioner

Ms. N.C. Walimbe, AGP for the Respondents 1 to 5

Mr. Umesh H. Pawar for the Respondents 6 and 7

***CORAM : SUNIL B. SHUKRE &
AMIT BORKAR, JJ.***

DATE : 16 FEBRUARY 2022

P.C. :-

Heard the learned Counsel for the parties.

2. Leave to amend the prayer clause by mentioning correct dates is granted. Amendment to be carried out forthwith.

3. The learned Counsel for the Petitioner submits that the impugned order is bad in law because it was only after the permission granted by the State of Maharashtra to recruit Group 'C'

and Group 'D' post, that the appointment of the Petitioner to the post of Peon was made.

4. Issue notice for final disposal at admission stage to the Respondents. The learned AGP waives for the Respondent Nos. 1 to 5. In fact reply is also filed on behalf of the Respondent No.5. The learned Counsel who appears by waiving notice of Respondent Nos. 6 and 7 orally submits that the Respondents support the claim of the Petitioner and the Respondents do not wish to file any reply.

5. In these circumstances, we have proceeded to hear the Petition finally by consent. Rule accordingly and heard finally forthwith by consent.

6. It is an admitted fact that the appointment of the Petitioner to the post of Peon was made by following due selection process and it is also admitted fact that the appointment of the Petitioner on the said post was made effective from 1 July 2009.

7. The ban on recruitment of non-teaching employees came into operation with effect from 10 June 2010. The Government Resolution dated 28 January 2019 putting in place revised staffing pattern for non-teaching employees, on which reliance has been placed by the Respondent Nos. 1 to 4 for opposing

the Petition, would not have any application to the appointment of the Petitioner made as far back as 1 July 2009. For the same reason, even the recruitment ban would have no application to the appointment of the Petitioner. For the similar reason, there is no recruitment ban on the appointment of the Petitioner. This being the position of law, we do not think that the impugned order refusing approval to the appointment of the Petitioner can be faulted with.

8. Accordingly, the Petition is allowed in terms of prayer clause (b) with all resultant benefits. Rule is made absolute in the above terms. No costs.

AMIT BORKAR, J.

SUNIL B. SHUKRE, J.

JYOTI
PRAKASH
PAWAR

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