

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3803/2021

Manoj Kashinath Hatwar,
Aged 52 yrs., Occu: Shipai,
R/o Bhawani Ward, Tal. Bramhapuri, Dist. Chandrapur.

PETITIONER

.....VERSUS.....

1. The State of Maharashtra, through the Secretary,
Urban Development Department, Mantralaya,
Mumbai 32.
2. The Deputy Commissioner,
Municipal Council Administration,
Nagpur Division, Nagpur.
3. The Municipal Council Bramhapuri,
Dist. Chandrapur, through its Chief Officer.
4. Arvind Tulshiram Moon,
Age 48, Occu. Peon,
R/o C/o through Municipal Council Desaiganj,
Dist. Gadchiroli, through the Chief Officer.

RESPONDENTS

Shri P.S. Kshirsagar, counsel for the petitioner.
Shri N.R. Patil, Assistant Government Pleader for the respondent nos.1 and 2.
None for the respondent nos.3 and 4.

CORAM : A. S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.

DATE : 16TH MARCH, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the order dated 11.06.2021 thereby rejecting the petitioner's objection to the order of posting dated 04.06.2021. By the order dated 04.06.2021 the services of the petitioner after being absorbed on the post of Peon have been

assigned to Municipal Council Saoner. The petitioner contends that as per the guidelines dated 20.05.2021 the orders of posting were to be made on the basis of seniority in service and by considering the choice given in the option form. It is the case of the petitioner that the respondent no.4 is junior to him and yet he has been posted at the place of which option was given by the petitioner.

3. It is not in dispute that as per the policy decision of the State Government, daily wagers in service with various Municipal Councils in the State between 11.03.1993 and 27.03.2000 were absorbed. In the matter of placement of such regularized employees the Urban Development Department came up with a policy by which the absorption was to be undertaken on the basis of seniority in service as daily wager and by considering the options given by the concerned employees. The petitioner was appointed on 02.12.1994 while the respondent no.4 was appointed on 22.01.1995. The seniority list published by the Collector on 18.07.2019 indicates that the petitioner is at Serial Number 2 and the respondent no.4 is at Serial Number 6 in the seniority list. The petitioner while submitting his option form had given preferences towards Nagar Parishad Bramhapuri, Nagar Parishad Desaiganj and Nagar Parishad Gadchiroli. The objection of the petitioner has been rejected without any reason and without considering the policy dated 20.05.2021. The

petitioner since the order of posting has joined at Municipal Council Saoner but seeks his placement at a Municipal Council as per the choices given by him.

4. On a perusal of the impugned order and on considering the reply filed by the respondent no.2, we do not find any reason indicated for rejecting the objection/representation made by the petitioner. Since the posting of the concerned employee was to be done as per the policy dated 20.05.2021, we are inclined to direct the respondent no.2 to re-consider the matter in the light of that policy, the choice given by the petitioner and the objection raised by him.

5. Accordingly, the following order is passed:-

- (I) The order dated 11.06.2021 passed by the respondent no.2 rejecting the objection of the petitioner is set aside.
- (II) The respondent no.2 is directed to re-consider the matter as regards the objection raised by the petitioner in the light of the policy dated 20.05.2021.
- (III) If the respondent no.2 proposes to relocate the respondent no.4 he shall also be heard in the matter before any orders are passed.
- (IV) Necessary decision by the respondent no.2 be taken within a period of four weeks from the date of presentation of the copy of this order.

6. The writ petition is disposed of with aforesaid directions.
Rule is made absolute in aforesaid terms. No costs.

(SMT. M.S. JAWALKAR, J.)

(A.S. CHANDURKAR, J.)

APTE