

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

WRIT PETITION NO. 4804/2021

Kapil Sevanand Gopanarayan,
Age @32 years, Occ. Service.
R/o. Anand Nagar, Hingna Fata,
Kaulkhed Road, Akola, District Akola.

Versus..

- 1] The State of Maharashtra,
through its Secretary for Rural Development
Department,
Mantralaya, Mumbai.
- 2] The Zilla Parishad, Akola
Through its Chief Executive Officer,
Akola, District Akola.
- 3] The Deputy Chief Officer,
(General Administration) Z.P.Akola,
District Akola.

..... **RESPONDENTS**

Shri S.M.Vaishnav, Advocate with for petitioner.
Shri N.R.Patil, Assistant Government Pleader for respondent no.1.
Shri R.M.Sharma, Advocate for respondent no.3.

CORAM : A.S.CHANDURKAR and SMT. M.S.JAWALKAR, JJ.
DATE : 28th March, 2022.

JUDGMENT (Per A.S.CHANDURKAR, J.)

- 1] **Rule.** Rule made returnable forthwith and heard the learned
counsel for the parties.

2] The father of the petitioner was in the employment with Zilla Parishad, Akola. He died in harness on 30.08.2006. The petitioner obtained qualification of H.S.C. on 08.06.2007 and on 13.03.2009 he was awarded a certificate of having cleared the English Typing Examination with 30 w.p.m. The petitioner sought appointment on compassionate basis with Zilla Parishad, Akola. He was accordingly appointed on the post of 'Peon' on 30.07.2009. Thereafter in June 2013 the petitioner obtained a certificate of having cleared Building Site Supervisor Examination. This certificate was awarded by Maharashtra State Board of Vocational Examination. After obtaining these qualifications the petitioner sought placement in Group 'C' post and especially on the post of 'Civil Engineer Assistant'. The petitioner sought to rely upon the Government Resolution dated 23.08.1996 in that regard. According to the petitioner few other similarly situated candidates who were initially appointed on a Group 'D' post but subsequently obtained higher qualifications were placed in Group 'C' on the post of 'Civil Engineer Assistant' by Zilla Parishad, Kolhapur. This was pursuant to the guidance given by the State Government by its communication dated 23.02.2021. In this backdrop, the petitioner seeks his placement on the post of 'Civil Engineer Assistant'.

3] Reply has been filed by the Zilla Parishad opposing the aforesaid prayer. It is stated that when the petitioner was appointed on 30.07.2009 he

was holding the qualifications that were applicable for the post of 'Junior Assistant' in Group 'C'. However since the post of 'Junior Assistant' was not vacant, he was given appointment on the post of 'Peon'. Since the petitioner obtained a certificate in Building Site Supervisor Course after his appointment, the aforesaid Government Resolution would not be applicable to the case of the petitioner.

4. During the course of arguments the petitioner has placed on record a pursis alongwith various documents to indicate that two similarly situated employees from Zilla Parishad, Kolhapur, namely, (1) Shri Vinay Shashikant Patil and (2) Shri Omkar Aappaso Patil improved their qualifications after being appointed in Group 'D' posts. Thereafter they were issued orders of appointment on the post of 'Civil Engineer Assistant'. The order passed by the State Government on 23.02.2021 indicates that the same is pursuant to a proposal received from the concerned Zilla Parishad.

5. In the aforesaid facts the interests of justice would be met by permitting the petitioner to make a representation to the Chief Executive Officer, Zilla Parishad, Akola seeking his placement on the post of 'Civil Engineer Assistant' in view of similar appointments made at Zilla Parishad, Kolhapur. If such representation made by the petitioner, the Chief Executive Officer, Zilla Parishad is free to obtain necessary guidance from the

State Government in that regard. The petitioner is free to rely upon an earlier appointments given to similarly situated candidates. If such representation is received from the Zilla Parishad, a decision on the same be taken by the State Government expeditiously and preferably within two months from the receipt of such representation. While undertaking consideration of such representation, the order dated 09.09.2021 passed by the Deputy Chief Executive Officer shall not come in the way of the parties.

With these directions, the writ petition is disposed of. Rule accordingly. No costs.

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

(A.S.CHANDURKAR, J.)

Andurkar..