

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 261 OF 2020

Digambar s/o. Shrimant Patane .. Petitioner
Age. 52 years, Occ. Service,
R/o. Punarwasan, Savargaon, Kallam,
Tq. Kallam, Dist. Osmanabad.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai.
2. The Additional Divisional Commissioner,
Aurangabad Division, Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad Osmanabad, Dist. Osmanabad.
4. The Dy. Chief Executive Officer (Grampanchayat)
Zilla Parishad, Osmanabad, Dist. Osmanabad.

Mr.E.S. Murge, Advocate for the petitioner.
Mr.S.B. Pulkundwar, AGP for the respondent/State.
Mr.PP. More, Advocate for respondent No.3.

CORAM : KISHORE C. SANT, J.
DATED : 10.08.2023

PC :-

01. Heard learned Advocates for the parties. The petition is taken up
for final disposal by consent of the parties.

02. The petitioner is aggrieved by order passed by the learned Additional Divisional Commissioner, Aurangabad dated 20.12.2017. The appeal of the petitioner is dismissed wherein he had challenged order passed by the learned Chief Executive Officer, Zilla Parishad, Osmanabad in respect of seniority of the petitioner. It is the case of the petitioner that he was appointed as a Gramsevak on 16.11.1996. In the year 1999 he passed departmental examination for promotion. He came to be promoted on 16.06.2009 to the post of Village Development Officer. In the seniority list prepared as on 01.01.2008, the petitioner was shown at Sr. No.13. It is grievance of the petitioner that, however, when the final seniority list was prepared as on 01.01.2011, he is shown at Sr. No.62. His grievance is that even the persons who passed departmental examination after the petitioner, such persons are shown as senior to him. He thus submits that his seniority is wrongly fixed by the Chief Executive Officer. He, therefore, raised grievance before the Chief Executive Officer by relying upon the amended provision in Section 247 (3) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1962 published in the Gazette dated 24.05.1999. By way of the amendment, it is prescribed that the person who passes qualifying examination earlier in

point of time shall be shown above in the seniority list. He submits that though he has passed examination in 1999, the persons who passed the said examination even thereafter are shown senior to him.

03. The learned Chief Executive Officer after considering the representation preferred by the petitioner held that the petitioner was appointed to the post of Village Development Officer on 16.06.2009 and he has been shown in the seniority list as per date of appointment. The petitioner, therefore, approached the learned Additional Divisional Commissioner, Aurangabad.

04. The learned Chief Executive Officer had on earlier occasion did not consider grievance, however, the petitioner, therefore, approached the learned Additional Divisional Commissioner. The learned Additional Divisional Commissioner by order dated 28.08.2014 directed the Chief Executive Officer, Osmanabad to decide the representation of the petitioner. The learned Chief Executive Officer, thereafter, passed order.

05. The petitioner, thus, again approached the learned Additional

Divisional Commissioner. The learned Additional Divisional Commissioner considered that the seniority list is rightly prepared on the basis of appointment of the persons to the post of Village Development Officer. It is further observed that the petitioner ought to have raised challenge within reasonable period of limitation. It is observed that the seniority list is rightly prepared and held that there is no change required. The appeal was, thus, dismissed.

06. It is submission of the petitioner that though he had obtained qualification in 1999, still the persons who obtained qualification later on, are shown above in the seniority list. By inviting attention to the amended subsection(3) of section 247 of the Act, he submits that it was necessary to consider the date of passing of the examination and not the date of entry in the cadre of the Village Development Officer.

07. The learned Advocate for respondent No.3 has invited attention to the affidavit in reply filed by the Block Development Officer for respondent No.3. In the affidavit, it is clearly stated that there is not a single person shown above the petitioner who is promoted after the promotion of the

petitioner. Thus, all the persons promoted on the date of promotion of the petitioner are shown below the petitioner. He thus, submits that there is no illegality committed while preparing the seniority list. He submits that the petitioner was appointed as Village Development Officer in 2009. There is no question of considering his date of passing of the departmental examination prior to that.

08. The learned AGP supports the order passed by the learned Additional Divisional Commissioner.

09. Considering the above submissions, this Court finds that the petitioner could not show that any person appointed to the post of Village Development Officer after the date of his appointment. Therefore, his submission that his seniority should have been considered as per the date on which he acquired the qualification cannot be considered, as the seniority is fixed on the basis of appointment to the post of Village Development Officer.

10. The learned Advocate for the respondent submits that the impugned order is dated 20.12.2017 and this petition is filed on 25.08.2019.

The petition also suffers from delay and laches. Thus, the petitioner has not approached this Court within reasonable time. However, the petition is entertained on merits. This Court does not find any merit in the petition and the petition, therefore, stands dismissed with no order as to costs.

[KISHORE C. SANT, J.]