

**BASAVRAJ
GURAPPA
PATIL**

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

**WRIT PETITION NO. 1137 OF 2021
WITH
INTERIM APPLICATION NO.2780 OF 2021
IN
WRIT PETITION NO. 1137 OF 2021**

Deepak Pandurang More

..... Petitioner /
Applicant

Vs.

The State of Maharashtra & Ors.

..... Respondents

Mr. S. R. Ronghe for the Petitioner / Applicant
Mr. M. M. Pabale, AGP for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : MARCH 29, 2023

ORAL ORDER : (PER : ACTING CHIEF JUSTICE)

1. Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2. Pursuant to the advertisement issued by Respondent No.2 for the post of Driver, the Petitioner applied from NT (B) category. The Petitioner was at Sr.No.1 in the wait list. Two posts were earmarked for NT(B) category. It is not disputed that only one person joined. The other person to whom the appointment letter was issued did not

join. The Petitioner being at Sr.No.1 on the wait list, claims appointment on the said post. The only reason for not considering the Petitioner for appointment to the post of NT(B) category is, that the wait list is operative only for one year and the same has lapsed.

3. It is not disputed that on the date when the Application was made, no offence was registered against the Petitioner. The offence is registered subsequently and also the Petitioner is acquitted in the said case. There was no impediment for the Respondents to consider the Petitioner for appointment, being the first in the wait list and the person to whom the appointment was issued, did not join and on the said date, there was no criminal case registered and/or pending against the Petitioner.

4. It is the Respondents who did not operate the wait list within a period of one year and now they are precluded from taking the stand that the wait list has lapsed.

5. On the last date, we had asked the Corporation, whether any vacant post exists. Additional affidavit is filed by Respondent No.2. It is accepted that four posts from NT(B) category are still vacant.

6. In light of that, the Respondents shall consider the Petitioner for appointment on the post of Driver from NT(B) category, in case the Petitioner complies with all other legal requirements and the

eligibility criteria.

7. Rule is accordingly made absolute.

8. The Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)