

JPP

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

WRIT PETITION NO. 1549 OF 2023

The Superintending Engineer and Administrator,
Command Area Development Authority,
Nashik – 2

... Petitioner

V/s.

Manoj Ashok Damale

... Respondent

Ms. R.A. Salunkhe, AGP for the Petitioner - State
Mr. Gaurav Bandiwadekar for the Respondent

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 13 OCTOBER 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner – State has challenged the order passed by the Maharashtra Administrative Tribunal, Mumbai, by which the Tribunal has directed the Petitioners to consider the claim of the Respondent – Original Applicant for appointment on compassionate basis of Group ‘C’ post subject to fulfillment of eligibility criteria according to the Rules.

3. Having heard this Petition for some time, we find that two subsequent developments have changed the nature of the cause. First that the Respondent – Original Applicant now as stated to have acquired a graduate qualification which is the qualification stated to be for Group ‘C’ post. Second, our attention is drawn to the Government Resolution dated 19 September 2022 which is issued subsequent to order passed by the Tribunal. This Resolution permits change of an applicant from waiting list of group ‘D’ to Group ‘C’ if the applicant acquires suitable qualification. These two developments which have taken place after the impugned order is passed has altered the position substantially.

4. In view of these developments, the Respondent can apply for change from being on waiting list for Group ‘D’ candidate where currently he is in Group ‘C’ by making an application as provided in the Government Resolution dated 19 September 2022. The learned AGP on instructions states that if such application is made, same would be considered within the parameters of the Government Resolution dated 19 September 2022.

5. Therefore, we dispose of the Writ Petition granting liberty to the Respondent to make an application for change from

waiting list prepared for Group 'D' to Group 'C' by making an application as contemplated under Government Resolution dated 19 September 2022. Upon such application being made to the concerned authority within a period of four weeks from today, the Petitioners will process the same in the light of the Government Resolution dated 19 September 2022 and take necessary action thereupon within a period of four weeks thereafter.

6. We make it clear that we have proceeded on the statement made by the learned Counsel for the Respondent, on instructions, that he has acquired suitable qualification for being considered to a Group 'C' post.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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