

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10876 OF 2019

Vidya Pandurang BhadanePetitioner

V/s.

The State of Maharashtra and Ors.Respondents

WRIT PETITION (ST.) NO. 28553 OF 2019

Rajendra Bhanudas MahirePetitioner

V/s.

The State of Maharashtra and Ors.Respondents

WRIT PETITION NO. 10416 OF 2019

Smt. Kishori Krishna ShirkarPetitioner

V/s.

The State of Maharashtra and Ors.Respondents

WRIT PETITION NO. 8900 OF 2021

Shri. Balaji Bhaurao SanapPetitioner

V/s.

The State of Maharashtra and Ors.Respondents

Mr. Prashant Bhavake i/by. Mr. Utkarsh Suresh Rao Desai,
Advocate for the petitioner in WP-10876-2019.

Mr. Prashant Bhavake, Advocate for the petitioner in other three connected matters.

Mr. B.V. Samant, AGP for State-respondent no.1.

Mr. Yatin Malavankar, Advocate for respondent no.2.

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

DATE : 6th APRIL, 2023.

P.C. :

1. The petitioners are impugning the orders of reversion.
2. All these petitioners were initially appointed as Clerks on probation. Subsequently, promotion orders were issued to them. Some of the petitioners were granted promotion twice.
3. The petitioners are reverted on the basis of the order passed by the State Government.
4. We have heard Mr. Bhavake, learned Advocate for the petitioners. According to the learned Advocate, principles of natural justice are violated. No proper show-cause notice was issued to the petitioners. Hearing was not conducted. The respondents, in flagrant violation of the principles of natural

justice, have reverted the petitioners to the original post as probationary Clerks. According to the learned Counsel, the petitioners upon being promoted, acquired the qualification of the promotional post, still they are reverted.

5. According to the learned Counsel for the respondents, the petitioners were not possessing the qualification for the post of Clerk. The petitioners were required to possess necessary qualification of requisite speed in Marathi and English Typing. The petitioners were not possessing the same. However, inspite of that, the petitioners were promoted in flagrant violation of the Recruitment Rules, 1998. Before promoting to the next post, the petitioners were required to work for minimum number of years on the post of District Organiser. Before completion of the minimum number of years that they were required to work, the petitioners were promoted. The petitioners also did not possess the qualification of the promotional post. All these aspects were considered and show-cause notices were issued to the petitioners. Hearing was conducted. However, the record of hearing has been manipulated by the petitioners and after observing the principles of natural justice, the orders of reversion are passed.

6. We have considered the submissions. There is no dispute that all these petitioners were issued with the promotional orders by the respondent-authorities. The dispute is about the petitioners possessing the qualification of the entry level post and subsequently the promotions being effected in violation of the Recruitment Rules.

7. Show-cause notice was issued to the petitioners. The show-cause notice was based solely on the directions of the State Government. The show-cause notice also narrates about the Government Report. The show-cause notice states that directions are received for reverting the petitioners. Copy of the directions was annexed to the show-cause notices and explanation was called from the petitioners. The order of the State Government only stated that the petitioners were not possessing the necessary qualifications for initial appointments as Clerks i.e. not possessing requisite speed in Typing. On the contrary, the impugned orders hold petitioners ineligible to hold promotional posts as well.

8. The grounds in the office order reverting the petitioners does not find place in the show-cause notice of which explanation is called for. Infact the show-cause notice ought to contain the grounds of ineligibility because of which the petitioners cannot hold the promotional posts. The order had to be preceded with the show-cause notice. The show-cause notice only contains the grounds of ineligibility for initial recruitment. Since no assertion was made in the show cause notices in respect of eligibility to hold promotional posts, it was not possible for the petitioners to reply and meet the said grounds. The order cannot be beyond the scope of show-cause notice. In observance of the principles of natural justice, the show-cause notice should contain the grounds on which the explanation of the petitioners is sought for. As the show-cause notice did not contain the said grounds, the same cannot be sustained.

9. In the result, the impugned orders are set aside.

10. The respondent is at liberty to issue fresh show-cause notices to the petitioners. In case fresh show-cause notices are issued to the petitioners, the petitioners shall reply to the said show-cause notices within ten days from the date of the receipt of the same.

11. Upon receipt of the explanation from the petitioners within the time as stipulated above, the respondents may take decision with regard to the eligibility of the petitioners to hold the initial or promotional posts, afresh.

12. Till fresh decision is taken, status-quo as on today with regard to the posts held by the petitioners, be maintained.

13. Depending upon the decision taken afresh, it is open for the parties to take further steps.

14. It is made clear that we have not dilated on the merits of the contentions of the parties.

16. Writ Petitions are accordingly disposed of.

**NEETA
SHAILESH
SAWANT**

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

Digitally signed by
NEETA SHAILESH
SAWANT

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