

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

WRIT PETITION 2471 OF 2022

Shankar s/o. Surendra Papal,
Aged 32 years, Occ. Service,
r/o. Dhanora, A/P. Bhankheda,
Tahsil District Wardha

.....PETITIONERS

...V E R S U S...

1. The State of Maharashtra,
through its Secretary, School
Education and Sport Department,
Mantralaya, Mumbai

2. The Directorate of Education,
State of Maharashtra, Directorate of
Education, Central Building, Pune

3. The Education Officer (Secondary),
Zilla Parishad, Wardha

4. Shetkari Shikshan Prasarak Mandal
Karmachari Vyavsayik Sanstha,
Wardha, through its President/
Secretary, Having Office at the
House of Shyam Karlekar,
Yashvwant Colony, Near G. M. Car
Showroom, Nagpur Road,
Wardha, Tahsil & District Wardha

5. Krushak Vidyalay, Bhugaon(Station),
Post Seloo Kate, Tahsil & District Wardha
through its Head Master.

..RESPONDENTS

Mr. S.S. Shingane, counsel for petitioner,
Mr. M.K. Pathan, AGP for respondents 1 to 3/State.

CORAM:- ROHIT B. DEO & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 06.03.2023

JUDGMENT (Per: Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

3. The petition, as initially preferred, assailed the communication dated 5.12.2019, whereby the Education Officer(Secondary), Zilla Parishad Wardha informed the respondents 4 and 5-Management that permission for appointment of the petitioner as Peon, on compassionate ground cannot be granted. Further, the subsequent communication dated 28.12.2021 which refuses to approve the appointment of petitioner on compassionate ground is also assailed.

4. During the pendency of the petition, the Education Officer (Secondary), Zilla Parishad, Wardha issued order dated 5.12.2022, whereby the appointment of the petitioner as Peon on compassionate ground is approved from 5.12.2022 for the subsequent three years.

5. The learned AGP Mr. M.K. Pathan fairly states, on the basis of instructions received from the concerned officer, that since

according to the proposal which is approved, the petitioner is appointed with effect from 25.10.2021, the order of approval dated 5.12.2022 can be corrected and made effective from 25.10.2021. In so far as the claim of the petitioner that he should be given benefit of the appointment and approval from the date of application for compassionate appointment, we see no reason to grant such relief. We note that the petitioner had preferred Writ Petition 6455/2019 seeking appointment on compassionate ground. It further appears that while according to the petitioner, he preferred the application on 17.11.2017, the petition was preferred on 27.8.2019. Moreover, there was a criminal prosecution pending at that time, and the petitioner was acquitted only on 4.2.2019. It further appears that the Management filed praecipe in Writ Petition 6455/2019 stating that the petitioner had been appointed vide order dated 22.10.2021. The petitioner could have prosecuted the earlier petition. However, the said petition came to be disposed of on the ground that the petition is rendered infructuous. The only issue which was left open was the grievance of the petitioner that approval to the appointment is refused. It is only to this extent, that liberty was reserved for filing fresh petition.

6. In this view of the matter, the petitioner is not entitled to any other relief, save and except, the correction of the effect of the approval, and to the extent indicated supra.

7. We allow the petition partly by directing Education Officer (Secondary), Zilla Parishad, Wardha to issue corrected approval order consistent with the observations supra.

(Mrs. Vrushali V. Joshi, J.) (Rohit B. Deo, J.)

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