

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2915 OF 2020

Archana Raju Mahalle, aged 46 years, Occup. Service, R/o Plot No.56, Reshimbag, Nagpur. **Petitioner**

-Vs.-

1. Deputy Director of Education, Nagpur Division, Nagpur.
2. The Education Officer (Sec.), Zilla Parishad, Nagpur.
3. Kurve's New Model Highschool, Sitabuldi, Nagpur, through its Headmaster.

Respondents

Mr.Prashant Shende, counsel for the petitioner.
Mr.N.S.Rao AGP for respondent 1 and 2.
Mr. Anand Parchure, counsel for respondent 3.

**CORAM:ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 20th MARCH, 2023

O R A L J U D G M E N T (Per : Rohit B. Deo, J.)
Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The grievance of the petitioner is that although vide order dated 07.07.2020, respondent 2-Education Officer directed respondent 3-Management to absorb the petitioner, who was on the list of the surplus employees, on class IV post, the respondent 3- Management did not comply with the direction.

4. We note from one of the communications placed on record that the Management took a stand that the petitioner was not suitable to work as peon.

5. By now, there is no dispute that as on 07.07.2020 there was a vacancy of peon in accordance with the staff justification statement for the concerned period.

6. Learned AGP makes a fair statement on the basis of instructions received from Respondent 2-Education Officer that if the petitioner is appointed by respondent 3-Management as peon and an appropriate proposal is submitted, the appointment shall be approved with effect from date of appointment. Learned AGP would however, submit that the petitioner may not be held entitled to any monetary benefit and notional fixation or appointment be given.

7. Considering that at the relevant time, there was a post of peon available, that the petitioner is ready and willing to work as peon and further the respondent 3- Management is agreeable to appoint the petitioner as peon with effect from 07.07.2020 we, dispose of the petition in the following terms.

(i) The Management shall issue the appointment order to the petitioner as peon with effect from 07.07.2020.

(ii) The Management shall forward an appropriate proposal seeking approval to the appointment of the petitioner within next two weeks and appropriate order shall be passed by respondent 2-Education Officer on the said proposal within two weeks from the receipt of the proposal and the petitioner shall co-operate by submitting necessary documents.

(iii) It is clarified that while we are directing that appointment be given with effect from 07.07.2020, the petitioner shall not claim, either from the Management or from the State Government, the salary and other financial benefits for the period for which he has not worked. However, the notional fixation or effect

shall enure to the benefit of the petitioner for the purpose of seniority and pension. Writ Petition is allowed in the aforesaid terms.

Rule is made absolute in the above terms. No costs.

(MRS.VRUSHALI V. JOSHI, J)

(ROHIT B. DEO)