

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

WRIT PETITION NO. 5473 OF 2021

Pritam s/o Late Narad Wasnik,
aged about 31 years, Occ. Shikshan Sevak,
Zilla Parishad School and Junior College, Asgaon,
Tq. Paoni, District – Bhandara.

PETITIONER

.....VERSUS.....

1. The Chief Executive Officer,
Zilla Parishad, Bhandara.
2. The Headmaster, Zilla Parishad High School,
Asgaon, Panchayat Samiti, Paoni,
Tq. Paoni, District – Bhandara.

RESPONDENTS

Shri P.R. Parsodkar, Advocate for the petitioner.
Shri R.S. Khobragade, Advocate for the respondents.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 20/4/2023

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned Counsel for the parties.

2] The petitioner came to be appointed on compassionate ground as Shikshan Sevak on 10/8/2021. In his order of appointment, there were various terms and conditions and in condition No. 15, it was stated that if in future, the Zilla Parishad found that the widow of the deceased, son/ daughter or sister/ brother is in employment with the State Government or Semi-Government Employer, the appointment would be cancelled. On 11/10/2021, the Chief Executive Officer issued a show cause notice to the petitioner stating therein that his younger brother Pawan was serving in the Police Department and therefore as per

Clause (15) of the appointment order, his services were liable to be terminated. The petitioner submitted his reply to the show cause notice on 21/10/2021 specifically stating that though his brother was employed with the Police Department, he had not provided any financial assistance to the family. On 17/11/2021, the Chief Executive Officer proceeded to terminate the services of the petitioner on the ground that there was violation of Clause (15) of the appointment order. Being aggrieved, the said order is challenged in this Writ Petition.

3] The learned Counsel for the petitioner submits that in view of the Government Resolution dated 21/9/2017 and especially Clause 5(e) thereof, it was necessary for the Zilla Parishad to have first verified whether the employment of the petitioner's brother could be a reason to deprive compassionate appointment to the petitioner. The financial position of the family was required to be taken into consideration in that regard. Such enquiry was conducted on 8/9/2021 and as per that report, it was noted that though the petitioner's younger brother was employed with the Police Department, he was not rendering any financial assistance to the widow – petitioner's mother. Despite this material, the impugned order of termination came to be issued. It is thus submitted that even under Clause (15) of the appointment order, it was necessary for the Zilla Parishad to have considered the effect of the Government Resolution dated 21/9/2017.

4] The learned Counsel for the respondents opposed the aforesaid submissions and relied upon the reply on record. He submitted that the appointment of the petitioner was conditional and since there was no dispute that the petitioner's younger brother was employed, his services came to be terminated as per Clause (15) of the appointment order. Hence, no interference with the impugned order was called for.

5] Having heard the learned Counsel for the parties and having perused the documents on record, we find that after the appointment of the petitioner on compassionate basis, the Zilla Parishad conducted an enquiry and the Extension Officer on 8/9/2021 forwarded a report to the Block Development Officer. In that report, it has been clearly stated that though the petitioner's brother was employed with the Police Department, the family was not getting any financial assistance as per the statement of the petitioner's mother. Despite this report being available, the show cause notice dated 11/10/2021 came to be issued. In the reply submitted by the petitioner, this position was re-iterated that the family was not getting any financial assistance. It is noted that the petitioner was engaged at the Zilla Parishad, Bhandara while his brother is serving in the Police Department at Nagpur. Clause 5(e) of the Government Resolution dated 21/9/2017 clearly requires examination of the financial position of the family in this regard. When the Extension Officer in the enquiry found that the petitioner's brother was not supporting the family, it was necessary for the Chief Executive Officer to have considered the same and in light of Clause 5(e) of the said Government Resolution, no further action was warranted. Even for Clause (15) of the appointment order to operate, this aspect was material.

6] In view of aforesaid, we find that the Zilla Parishad was not justified in terminating the services of the petitioner ignoring the report dated 8/9/2021 as well as the Government Resolution dated 21/9/2017.

7] Hence, for the aforesaid reasons, the order dated 17/11/2021 is set aside. The Zilla Parishad shall reinstate the petitioner on the post of Shikshan Sevak within a period of three weeks from today. Though the petitioner will not be entitled to receive any backwages, his date of appointment shall be treated as 10/8/2021 and he would be entitled for continuity for all consequential benefits.

8] Rule is made absolute in the aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

SUMIT