

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

WRIT PETITION 7226 OF 2018

Vijay s/o. Kashinath Dhanorkar,
aged about 32 yrs, Occ. Service,
R/o. C/o. R.N. Ingle, Plot no. 64,
Thoma Layout, Panchavati, Katol,
District Nagpur

.....PETITIONER

..V E R S U S..

1. The Chairman Departmental
Promotional Committee,
At Collectorate, Nagpur
2. The Assistant Commissioner,
Backlog Cell, Nagpur Division,
Nagpur
3. The Deputy Director
Education, Nagpur Division,
Nagpur
4. The Municipal Council Katol,
through the Chief Officer, Katol,
District Nagpur

..RESPONDENTS

Mr. R.R. Rathod, counsel for petitioner,
Mr. S.M. Ukey, Addl.GP for respondents 1 to 3/State.
Mr. M.I. Dhattrak, counsel for respondent 4.

CORAM:- ROHIT B. DEO & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 02.03.2023

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

Heard.

2. Rule. Rule made returnable forthwith. Heard by
consent of the parties.

3. The petitioner is a Teacher working at a school which is administered by respondent 4 - Municipal Council, Katol.

4. Petitioner was appointed as Shikshan Sevak on 12.6.2006 and was confirmed as Assistant Teacher on 11.6.2009.

5. The petitioner contends that the Municipal Council implements 100% point roster. In the year 2012, the extant roster envisaged reservation for Special Backward Class category for the post of Headmaster.

6. The petitioner submits that he was, and is, the senior-most teacher from the Special Backward Class category and was entitled to promotion as Headmaster in accordance with the roster, then in force.

7. One Mr. Namdeo Pralhad Dhavale approached the High Court assailing the reservation of the post of Headmaster from the Special Backward Class category. Mr. Namdeo Dhavale claimed that the post of Headmaster be reserved for the Scheduled Caste category. The said Writ Petition 5806/2012 is dismissed by the

High Court holding that the petitioner (who is impleaded as respondent 5 in the said petition) is eligible and qualified to hold the post of Headmaster.

8. The petitioner contends that in the year 2017, the post of Headmaster came to be reserved for the Vimukta Jati-A category. The petitioner represented, but in vain. The petitioner is assailing the concerned Circular dated 29.5.2017, and is seeking a direction that the petitioner be promoted with effect from 1.1.2012.

9. We have perused the affidavit in response filed on behalf of respondent 4 – Municipal Council, Katol. Every material averment in the petition is admitted. In particular, it is admitted that in the year 2012, the post of Headmaster was reserved for Special Backward Class. It is further admitted that the claim of the petitioner was accepted by the Backward Class Cell and the petitioner was recommended for promotion as Headmaster by the Departmental Promotion Committee. It is candidly stated in the affidavit in response that it is only due to the pendency of Writ Petition 5806/2012 that the promotion of the petitioner was kept pending.

10. We have also considered the affidavit in response dated 7.1.2018 filed on behalf of respondent 2. The affidavit in response endeavours to justify the Circular dated 29.5.2017 to the extent the post of Headmaster is shown reserved for Vimukta Jati-A category.

11. Having heard the learned counsel for the parties, we find it wholly unnecessary to consider the validity of the Circular dated 29.5.2017. We find that irrefutably in the year 2012, the post of Headmaster was reserved for the Special Backward Class and the petitioner was and is the senior-most teacher. We further find that the petitioner was found eligible for promotion, and he was, as a fact, recommended for promotion as Headmaster by the Departmental Promotion Committee. The learned counsel for respondent 4 Mr. M.I. Dhattrak has fairly stated that there was no interim order operating in Writ Petition 5806/2012 preferred by Mr. Namdeo Dhavale. If that be so, we find no justification for the promotion of the petitioner being kept in cold storage. The petitioner should have been appointed as the Headmaster, and at the most, the appointment could have been made subject to the decision in Writ Petition instituted by Mr. Namdeo Dhavale.

12. Be that as it may, while dismissing the writ petition preferred by Mr. Namdeo Dhavale, the Coordinate Bench has held the petitioner eligible and qualified to hold the post of Headmaster.

13. In this view of the matter, we allow the petition, partly.

14. We direct that the petitioner be promoted as Headmaster with effect from the date, on which his name was recommended for promotion by the Departmental Promotion Committee. However, the petitioner shall not be entitled to any monetary benefit since he has not, as a fact, functioned as the Headmaster and shall only be entitled to the benefit of seniority.

15. Respondent 4 is directed to complete the procedural formalities within the next four weeks.

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