



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

WRIT PETITION NO. 264 of 2023

Vishwas s/o Punjabrao Warghane,
Aged about 48 years, Occupation-Service,
R/o. Hanuman Nagar, Wardha,
Tah. and District Wardha.

..... **PETITIONER**

...VERSUS...

Zilla Parishad, Wardha,
through its Chief Executive Officer,
Wardha, Tah. And District Wardha.

..... **RESPONDENT**

Shri S. K. Bhoyar, Advocate for petitioner.
Shri P.S.Wathore, Advocate for respondent.

CORAM : A.S.CHANDURKAR and MRS. VRUSHALI V. JOSHI, JJ.
DATED : 25th AUGUST, 2023

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

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 13.12.2022 issued by the respondent - Zilla Parishad, Wardha thereby demoting the petitioner from the post of Junior Accounts Officer to Senior Assistant (Audit).

3. It is the case of the petitioner that by virtue of the order dated 27.10.2021, he was promoted on the post of 'Junior Accounts Officer'. Without giving him any opportunity of explanation, the Zilla Parishad has proceeded to demote him on the initial post. By relying upon the decision in *Radha Krishan*

Industries vs. State of Himachal Pradesh and others [(2021) 6 SCC 771], it is submitted that since the order of demotion has been issued in breach of principles of natural justice, the same is liable to be set aside.

4. Shri P. S. Wathore, learned counsel appearing for the Zilla Parishad has relied upon the affidavit in reply to justify the order of demotion. It is submitted that within the time prescribed for passing the requisite examination the petitioner failed to pass the same and hence the order of reversion came to be issued. It is thus submitted that no interference with the order of reversion was called for.

5. In reply, Shri S.K.Bhoyar, learned counsel for the petitioner submitted that if opportunity to demonstrate the entitlement of the petitioner to hold the post of 'Junior Accounts Officer' would have been provided, the same would have served the ends of justice.

6. We find that the petitioner having been promoted on 27.10.2021, he had a right to hold the post of Junior Accounts Officer. If that right was to be taken away, the same could be done by complying with the principles of natural justice and especially by giving notice to the petitioner of the action proposed. Since the impugned order of demotion has been issued without grant of any opportunity to the petitioner, the same is liable to be set aside.

7. Accordingly, the following order is passed:

(i) The order dated 13.12.2022 passed by the Chief Executive Officer, Zilla Parishad, Wardha is set aside.

- (ii) The Zilla Parishad, Wardha, is at liberty to take appropriate action in accordance with law if it finds that the petitioner is not eligible to hold the post of Junior Accounts Officer. Such action be taken after complying with the principles of natural justice.
- (iii) Keeping the points on merits as raised by both the sides open, the writ petition is allowed in aforesaid terms and disposed of.
- (iv) Needless to state that since the order of demotion dated 13.12.2022 is set aside, the order dated 27.10.2021 concerning with the petitioner shall automatically operate for the reasons stated hereinabove.
- (v) Rule accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..