



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

WRIT PETITION NO.797/2023

Mahatma Fule Backward Class Development Corporation Ltd. and anr. .Vs. Ashok
Sukhdeorao Sontakke and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Nikuse, Advocate for petitioners
Mr. M. R. Rajgure, Advocate for respondent No.1.

CORAM : ANIL L. PANSARE, J.
DATE : NOVEMBER 27, 2024

Heard.

The petition arises out of the seniority list published by the petitioner – employer. Respondent No.1 was appointed as clerk on 26.02.1993. Respondent Nos. 2 and 3 were also appointed as Clerk but on 15.05.1995 and 20.10.1995, respectively. There is no dispute that respondent No.1 holds qualification of graduation as against respondent Nos. 2 and 3 who are 10th passed.

Despite such situation, the petitioners have, in the year 2004, while publishing the seniority list of 'Assistant', which is a post higher in rank than the Clerk, included respondent Nos. 2 and 3 in the list but have ignored respondent No.1. The reason assigned is that appointment of respondent Nos. 2 and 3 was inadvertently made as Clerk. They made representation and accordingly, the mistake has been corrected.

Industrial Court found that the petitioner employer has not placed on record any material to show as to what inquiry was conducted before arriving at conclusion that the respondent Nos.2 and 3 were inadvertently appointed as clerk

when they were to be appointed as Assistants. The Industrial Court further found that the petitioner failed to explain as to what was exact qualification of respondent Nos.2 and 3 at the time of initial appointment.

Thus, what transpires is that all the respondents were appointed as Clerk. Respondent No.1 holds higher qualification than other two respondents. Despite such status, the petitioner has favoured respondent Nos. 2 and 3 by putting them in seniority list of Assistant and by keeping respondent No. 1 in the list of Clerk.

Accordingly respondent No.1 approached Industrial Court with a grievance of unfair labour practice against the petitioner. The Industrial Court, by noting aforesaid fact, has held that the petitioner has indulged into unfair labour practice by favoruing other two respondents. Accordingly, while allowing the complaint filed by respondent No.1, it directed the petitioner to consider the case of the respondent No.1 for the post of Assistant from the date on which respondent Nos. 2 and 3 were placed in list of Assistant.

I do not find any error in the aforesaid approach. No case is made out to interfere with the impugned order in writ jurisdiction. The writ petition is, therefore, dismissed. No order as to costs.

(Anil L. Pansare, J.)