



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

WRIT PETITION NO.4188 OF 2024

Sunil S/o Dnyandeo Washimkar, Tq. Khamgaon, Dist. Buldana

-VS-

State of Maharashtra, Thr. Secretary, Ministry of School Education, Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri S. M. Awachar, Advocate for petitioner.

Shri H. R. Dhumale, Assistant Government Pleader for respondent Nos.1 to 3.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : July 15, 2024

1. Heard.
2. The petitioner prays for quashing and setting aside the order dated 14/05/2024 passed by the Deputy Director of Education, Amravati Division, Amravati granting approval to promotion to respondent No.6 on the post of Junior Clerk.
3. The petitioner and respondent No.6 were appointed on the post of 'Peon' and 'Laboratory Attendant' respectively on the same day i.e. 01/07/2002. However, since the respondent No.6 was senior to the petitioner in age, his seniority is shown above the petitioner. While filling in the post of Junior Clerk, the claim of respondent No.6 was considered over and above the claim of the petitioner. Feeling aggrieved, the petitioner has approached before this Court.
4. It is the contention of Shri S. M. Awachar, learned counsel for the petitioner that the feeder channel for the post of Junior Clerk is not from the category of 'Laboratory Attendant' but the same has to be

incurred from the cadre of 'Peon'.

5. As far as aforesaid contention is concerned, the learned counsel would invite our attention to the communication/objection issued by the Education Officer (Secondary), Zilla Parishad, Buldhana on 11/07/2022. It is claimed that in absence of expressed provision thereby holding the post of 'Laboratory Attendant' to be considered for promotional post of Junior Clerk, the claim of the respondent No.6 cannot be considered.

6. In the aforesaid backdrop, it is claimed that the promotion granted in favour of the respondent No.6 be set aside.

7. The aforesaid contention of the petitioner cannot be considered particularly when the respondent No.6 is already shown to be senior to the petitioner. The minimum required qualification for the post of 'Junior Clerk' is already held by the respondent No.6. Over and above respondent No.6 is senior in seniority to the petitioner.

8. We are not shown any provision whereby respondent No.6 can be considered as not eligible for promotional post of 'Junior Clerk'.

9. That being so, we see no reason to cause interference in extraordinary writ jurisdiction.

10. At this stage, the counsel for the petitioner submits that in case the petitioner makes a claim for the post of 'Laboratory Attendant' which is fallen vacant in terms of promotion granted in favour of the respondent No.6, the Management be directed to consider the same on priority basis.

11. We are of the view that both the posts i.e. of 'Peon' and 'Laboratory Attendant' are equivalent posts and the petitioner is seeking transfer from the post of 'Peon' to that of 'Laboratory Attendant'. Hence in case such request is made by the petitioner to the Management, we direct the Management to deal with the same in accordance with law.

12. The writ petition is disposed of accordingly. No costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)