



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

WRIT PETITION NO. 6221/2019.

Raju Ganpat Gedam and another.

-VERSUS-

State of Maharashtra and another.

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

Court's or Judge's Orders

Shri N.S. Warulkar, Advocate for Petitioners.
Shri B.M. Lonare, A.G.P. for Respondent No.1.
Shri B.N. Jaipurkar, Advocate for Respondent No.2.

CORAM : VINAY JOSHI AND
M.S. JAWALKAR, JJ.

DATE : JUNE 10, 2024.

Heard.

2. Petitioners are the employees of Gram Panchayat seeking absorption to the Zilla Parishad District Services as per the amended Rule 10-A of the Zilla Parishad Services (Recruitment) Rules, 2005 (2005 Rules). Petitioners would contend that in view of the amended Rule 10-A of the 2005 Rules, Gram Panchayat employees can be directly absorbed in the services of Zilla Parishad, if they possess necessary qualification and are

continuously working in the Gram Panchayat for last 10 years.

3. Petitioners would submit that in the year 2018, they were eligible for direct absorption since they have not completed 45 years of age, which is one of the requirement in terms of Rule 10-A of the 2005 Rules. Petitioners have moved a representation, but, the same was not considered, and therefore, they have approached this Court by filing Writ Petition No.436/2019 seeking appropriate directions. This Court has considered the position of new channel of absorption of 10% of the employees of Gram Panchayat and accordingly, directed the respondent to consider the representation of petitioners. Pursuant to said directions, the respondent no.2 Zilla Parishad has considered the said representation and ultimately by the impugned communication dated 03.04.2019, rejected the same for the reason that petitioners do not qualify for absorption since they do not fulfill age criteria specified in Rule 10-A.

4. There is no dispute that in terms of

amended Rule 10-A(3), the absorption shall be upto the age of 45 years only. In the year 2018, though petitioners have not completed age of 45 years, but, there was no recruitment and thus, they have not been absorbed. It is not in dispute that from 2016 to 2018, there was no recruitment. Respondent no.2 Zilla Parishad has undertaken the exercise of recruitment in the year 2019 and at that time petitioners have already crossed 45 years of age, and therefore, they have not been considered.

5. It is the only grievance of petitioners that in 2018 the respondent no.2 ought to have initiated recruitment process as they were eligible on the criteria of age. The directions issued by the government only states about absorption of 10% vacancies of Gram Panchayat employees, but, it does not mandate to annually undertake the recruitment. We cannot direct the respondent to take it as a compulsion for Zilla Parishad to undertake the recruitment on year wise basis. The fact remains that when there would be

recruitment, the 10% absorption would be made, provided the Gram Panchayat employees are found eligible. Since in the year 2019 when the recruitment was undertaken, petitioners were ineligible on age criteria. We do not see any illegality on the part of respondents in issuing the impugned communication. Writ Petition is therefore, dismissed. No costs.

6. At this stage, the learned Counsel for petitioners urged to continue the interim order dated 09.09.2019 by which two posts were directed to be kept vacant, since petitioners desire to challenge this order.

7. Only because the interim order is prevailing for last 5 years, we find no difficulty in continuing the same for a period of four weeks from today, hence, we do so accordingly, however, the same shall cease to operate thereafter.

JUDGE

JUDGE