



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

Writ Petition No. 6888 of 2023

(1) Bhagyashri Sitaram Bhangе
Age @ 34, Occ – P/W Contract Gram
Sevak, P.S. Murtizapur,
R/o. Murtizapur,
Tq. Murtizapur, Dist. Akola.

(2) Suraj Ganeshrao Bonde
Age @ 33 yrs, Occ – P/W Contract Gram
Sevak, P.S. Balapur,
R/o. Gram sevak Colony, Murtizapur,
Tq. Murtizapur, Dist. Akola.

... Petitioners

- Versus -

(1) The Divisional Commissioner
Amravati Division, Amravati.

(2) The Zilla Parishad, Akola
Through Chief Executive Officer,
Tq. & Dist. Akola.

... Respondents

Mr. S. M. Vaishnav, Advocate for the petitioners
Mr. A. M. Kadukar, AGP for respondent no. 1
Mr. U. J. Deshpande, Advocate for the respondent no. 2

CORAM : ANIL L. PANSARE, J.

DATED : 19-11-2024

ORAL JUDGMENT

Heard.

2. Issue Rule, returnable forthwith.

3. Learned Assistant Government Pleader Mr. A. M. Kadukar waives service of notice for respondent no. 1 and learned counsel Mr. U. J. Deshpande waives service of notice for respondent no. 2. With consent of learned counsel appearing for the parties, the petition is taken up for final hearing.

4. The grievance of the petitioners is that though they were entitled for appointment as Gram Sevak, they were appointed as Attendant on compassionate ground in the pay scale of Rs. 4440-7440 with Grade Pay of Rs. 1300/- plus allowances but while absorbing them as Gram Sevak, the appointment was made in consolidated pay of Rs. 6,000/- per month.

5. The petitioners were appointed as Attendant in Group D category because there was no vacancy in Group C at the relevant time. The petitioners worked for about ten years from their initial appointment which was made on 30-7-2009. The petitioners, on 3-8-2019, were absorbed in Group C category but on consolidated pay of Rs. 6,000/-. The petitioners were continued in this pay scale for a period of three years allegedly in terms of Government Resolutions (G.Rs) dated 6-6-2001 read with 20-4-2006 which deals appointment of Gram Sevak, Group C post on contractual basis which to my mind, has no relevance of whatsoever nature in the appointment of persons like

the petitioners who were for some contingency could not be appointed as Gram Sevaks at the relevant period. Thereafter, their appointment was regularized in grade pay applicable to the post of Gram Sevak.

6. Appendix VIII of the Maharashtra Zilla Parishads District Services (Recruitment) Rules, 1967 (for short 'the Rules of 1967') provides that appointment of Gram Sevak (Class III) shall be made by nomination from amongst the candidates who are already in services of zilla parishad and are aged more than 28 years. Both the petitioners were, at the relevant time, more than 28 years old and possessed requisite qualification. Thus, they were entitled for appointment in terms of the Rules of 1967, which does not provide for temporary or contractual appointment. In fact learned counsel for the petitioners submits that one Mr. Mangesh Bunde, who was similarly situated, has been appointed in terms of the aforesaid provisions in the regular pay scale.

7. Despite such status, respondent no. 2 – Chief Executive Officer, Zilla Parishad, Akola has taken aid of G.R. dated 6-6-2001 read with G.R. dated 20-4-2006 to appoint the petitioners on contractual basis, which is an apparent error of law, having ignored provisions of the Rules of 1967. The order passed by the Chief Executive Officer has been upheld by respondent no. 1 – Divisional Commissioner, Amravati

without taking into consideration the fact that the initial appointment of the petitioners was made in a regular pay scale but was converted into contractual appointment by relying upon G.R. which was not applicable to the petitioners' case. The orders impugned are, therefore, unsustainable.

8. Writ petition is accordingly allowed. Order dated 3-8-2019 passed by respondent no. 2 - Chief Executive Officer, Zilla Parishad, Akola as also order dated 7-7-2023 passed by the Divisional Commissioner, Amravati in Appeal bearing No. 24/Z.P.S./Akola/2021 are quashed and set aside.

9. The respondent no. 2 shall pay arrears of difference of pay to the petitioners for the period from 3-8-2019 to 23-9-2022 by duly granting continuity of service and other incidental benefits. This exercise be carried out within 12 weeks from today, failing which, arrears of amount shall be deducted from the salary of the respondent no. 2 Chief Executive Officer, Zilla Parishad, Akola, unless otherwise directed by the Court. Learned counsel for respondent no. 2 shall ensure that the order is brought to the notice of the respondent no. 2 well within time.

10. Rule is made absolute in above terms with no order as to costs.

(Anil L. Pansare, J.)

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