



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

974 WRIT PETITION NO. 8411 OF 2021

WITH

WRIT PETITION NO. 8394 OF 2021

PRABHAKAR KASHINATH SHINDE

VERSUS

THE STATE OF MAHARASHTRA THR ITS SECRETARY AND OTHERS

...

Advocate for the Petitioner : Mrs. Preeti D. Rane

Advocate for Respondent nos. 2 & 3 : Mr. A.B. Dhongade

CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 29.01.2025

PER COURT :

We have heard both the sides finally.

2. The petitioners were put in the supernumerary category in light of the Government resolution dated 21.12.2019, which was passed in the wake of the decision of the Supreme Court in the matter of Chairman and **Managing Director, FCI and others Vs. Jagdish Balaram Bahira and others**, ignoring the fact that they were appointed against unserved posts.

3. The respondent-Zilla Parishad in the affidavit in reply in paragraph no. 5 of the respective affidavits filed in both these petitions specifically admits the fact of they having been appointed through regional selection committee in open category. In the light of such admission, the impugned action of putting them in the supernumerary category resorting to the aforementioned Government resolution would not stand the test of law and is liable to be quashed and set aside and is accordingly set aside.

4. Though we have been addressed by the learned advocate for the petitioners for tagging of the initial service rendered by both of them prior

to their appointment in the year 1992, in our considered view, we cannot prejudge the issue. It would be for the employer/department concerned to process the pension papers of petitioner Subhash Kashinath Shinde, who already stands superannuated and depending upon the proposal and the finalization of the pension he can raise the issue, if his previous service is not tagged with the subsequent one.

5. Though the other petitioner Prabhakar Kashinath Shinde is still to retire in May 2025, same would be the analogy. We cannot prejudge the issue and we leave it to the respondent no. 2-Chief Executive Officer, Zilla Parishad, to consider his request for tagging the earlier service while processing even his pension papers.

6. We shall not be taken as having embarked upon and decided the rights of both the petitioners for tagging of the earlier employment.

7. The writ petitions are disposed of accordingly.

(PRAFULLA S. KHUBALKAR J.)

(MANGESH S. PATIL, J.)

mkd/-