

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1012 OF 2023

Ganesh Rudrappa Kamble & Anr. ... Petitioners

Versus

The State of Maharashtra & Anr. ... Respondents

Mr. Sagar Mane and Mr. Rushikesh Jagdale i/b. Ms.Ashwini Bandiwadekar for the Petitioners.

Mr. V.M. Mali, A.G.P. for the Respondent-State.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 24th November 2025.

ORAL JUDGMENT (Per : M. S. Karnik, J.)

1. The challenge in this Petition is to the Order dated 14th October 2022 passed by the Respondent No.2- the Education Officer (“E.O.”, for short), rejecting the proposal for individual approval to the appointment of the Petitioner No. 1 as ‘Peon’.

2. The facts of the case in brief are that the Petitioner No.2 is the Management, which runs Government recognized and aided secondary school. One Shri Sadashiv Mathpati, who was working as Peon, passed

away, while he was in service on 28th August 2013. Thus, a clear vacancy arose in the sanctioned post. At the relevant time, there was backlog of ST category as well as deficiency in General category and an advertisement was issued in the daily newspaper “Daily Agradoot” on 13th August 2014. After conducting the selection process, the Petitioner No.1 was appointed on the post of peon in the open category with effect from 1st September 2014.

3. The Headmaster submitted a proposal to the E.O. but he declined to accept the same on the ground that there is ban on recruitment of non-teaching staff. The proposal was submitted almost after 8 years since the date of appointment on 7th September 2022.

4. The State Government imposed ban on recruitment of non-teaching employees in 2010, which was in force for one year. In 2011 the State Government extended the said ban for one more year. After some time the State Government took a decision to reconsider the revised staffing pattern for non-teaching posts. The G.R. dated 12th February 2015 directed that till final decision is taken in respect of staffing pattern, no appointment should be made on new/vacant posts in non-teaching cadre.

5. The Headmaster submitted the proposal of Petitioner No.1 on 7th September 2022. By the impugned order dated 14th October 2022 the

Respondent rejected the proposal on the basis of G.R.s dated 28th January 2019 and 11th December 2020.

6. It is the submission of the learned counsel for the Petitioners that the Petitioner No.1 was appointed on the post of Peon with effect from 1st September 2014, however the proposal was rejected by relying on G.R.s dated 28th January 2019 and 11th December 2020, which were issued subsequent to the appointment of the Petitioner No.1. It is further submitted that the earlier ban imposed by the State Government was for a period of one year only. At the time of appointment of the Petitioner, the ban on recruitment of non-teaching employees was not in operation.

7. Learned A.G.P. vehemently opposed to the Petition. It is submitted that, there was ban on recruitment at the time when the proposal was submitted and therefore there is no error in the approach of the E.O.. It is further submitted that, there was a delay in submitting the proposal, which is not explained and this itself is sufficient to reject the proposal.

8. Heard. We have perused the impugned order and the relevant exhibits. We find that G.R. dated 12th February 2015 is relied upon by the E.O. to reject the proposal on the ground that there was a status-quo as regards the appointment of non-teaching employees. Such a reason to reject the proposal, in our opinion, is erroneous. The Petitioner was appointed after issuing an advertisement. The impugned order does not

record that the Management did not follow the prescribed procedure while appointing the Petitioner No.1. Further it is not disputed that upon a clear vacancy created by the death of an employee, the Petitioner was appointed to this post. The Petitioner has taken up a specific contention that the post for open category was available, which has not been controverted, nor is it the reason for rejection of approval as can be seen from the impugned order.

9. This being so and as the Petitioner No.1 was appointed on 30th August 2014, the rejection of the approval on the basis of G.R. dated 12th February 2015, which G.R. came into force subsequent to the appointment of the Petitioner No.1, cannot be made retrospectively applicable to the Petitioner No.1's proposal.

10. It is further seen that the proposal was rejected on the ground that, as per the G.R. dated 28th January 2019, a decision had been taken to apply the revised staffing pattern and to fill in the post after the Guidelines are issued in respect of revised staffing pattern. To apply the G.R. dated 28th January 2019 retrospectively while considering the proposal is erroneous. Equally, the G.R. dated 28th January 2019, which was issued after the appointment of the Petitioner No.1, ought not to have been applied retrospectively, as nothing in the G.R. indicates that it was intended to operate retrospectively.

11. Likewise, the G.R. dated 11th December 2020 was issued much after the date of appointment of the Petitioner and, therefore, cannot govern the case of the Petitioner. Merely, because the proposal for approval is submitted after a delay of 8 years, the date of submitting the proposal cannot be a relevant consideration for applying the G.R.s dated 12th February 2015, 28th January 2019 and 11th December 2020. It is the date of appointment of the Petitioner No. 1, which would be relevant, as the approval is sought from that date.

12. The learned A.G.P pointed out that, since the Management had submitted the proposal belatedly, the Education Officer was justified in rejecting it. In our opinion, the purpose of submitting the proposal at the earliest is to ensure that the concerned employee is benefited by the salary grants as early as possible since the date of appointment. The learned counsel for the Petitioners submitted that neither Petitioner No.1 nor Petitioner No.2 will raise any claim for interest on account of the delayed payment of admissible salary grants. The said statement is accepted as an undertaking to this Court.

13. There is nothing on record to indicate that the initial appointment of Petitioner No.1 is in breach of any statute or policy governing such appointments. In the absence of any such finding in the impugned order, mere delayed submission of the proposal for approval should not be a

ground to deprive the Petitioner No.1, who is working as a Peon, of his rightful dues.

14. The Petition is therefore allowed in terms of prayer clauses (b) and (c), which reads thus:

(b) By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 14th October 2022 issued by the Respondent No. 2, and accordingly the Respondent No. 2 may be directed to grant approval to the appointment of the Petitioner No. 1 as a Peon w.e.f. 1st September 2014 in the aided Secondary School of the Petitioner No. 2 Management, and to release the grant-in-aid for payment of monthly salary in pay scale from the said date of appointment, with all arrears.

(c) After the approval would be granted as per prayer clause [b] above, that by a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to grant permission to enter the name of the Petitioner No. 1 in Shalartha Pranali and to allot her Shalartha I.D. as a Peon w.e.f. 1st September 2014, in the aided School of the Petitioner No. 2 Management, with all consequential benefits.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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