



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6961/2024

- 1) State of Maharashtra
Medical Education & Drugs
Department,
Mantralaya, Mumbai-32.
Through its Secretary
- 2) The Director,
Directorate of Ayurved,
Govt. Dental College and Hospital
Building,
Fourth Floor St. George Hospital
Premises, P.D. Dernalo Road, Fort,
Mumbai-01.
- 3) The Dean,
Govt. Ayurved Hospital
Sakkardara Square,
Umred Road, Raje Raghuji Nagar,
Nagpur-24.

... PETITIONERS

...VERSUS...

Neeraj S/o Nandkishor Sharma
Aged about 47 years, Occ: service,
R/o. Plot No. 16, Swarkapuri
Layout,
Rameshwari Nagar, Nagpur-27.

...RESPONDENT

Ms D.I. Charlewar, AGP for petitioners/State
Shri S.D. Shukla, Advocate for respondent

CORAM : **SMT. M. S. JAWALKAR, J.**

DATE : **25/03/2025**

ORAL JUDGMENT

Heard learned Counsel for the petitioners and learned Counsel for the respondent.

2. On the last date of hearing this Court was about to dismiss the petition. However, at the request of learned Assistant Government Pleader, time was granted by way of last chance. Today also, no any channel of promotion is placed on record. On perusal of judgment of learned Industrial Court, it appears that the learned Industrial Court taken into consideration all the contentions raised in this petition.

3. The contention of the respondent is that complainant was appointed as a Museum Keeper, by way of absorption which

come under group 'C'. It is admitted fact that the complainant examined himself, however, his cross was not conducted and no cross order came to be passed.

4. The complainant has relied on various documents, those are duly considered by the learned Industrial Court. He also considered the recommendation moved by respondent No.3/ Dean to Directorate of Ayush, Mumbai, to place the complainant in pay band of Rs.9300-34,800/- with Grade-Pay of Rs.4200/- and requested to pass appropriate order.

5. The learned Industrial Court also take a note of the fact that similarly situated employees have been granted promotion and given pay scale of Laboratory Assistant after completion of twelve years of service. Document at Exh. U-41 shows that the higher pay-scale is conferred on other employees for the post of Technician. The petitioner herein failed to lead any evidence to rebut the case of the complainant or to substantiate their contentions that Circular/Government Resolutions produced on record are not applicable to his case and how the case of the other employees to

whom benefit is granted were different from the case of the complainant. This petition is filed after near about one and half year after passing of the order. Apart from this, document filed along with reply by the present respondent shows that in service record, it is specifically mentioned (page 92) that he was granted pay scale after twelve years of his service.

6. It is the contention of the petitioner that College and Hospital are the different entities, however, looking to the reply filed by the petitioner herein, before the Industrial Court, they had admitted that it is one and the same entity, moreover this ground was not raised before the Industrial Court. Petitioners/State also placed on record the communication dated 02/06/2018, it was not placed before the Industrial Court. However, it cannot be considered at this stage, specifically when the said communication is issued during the pendency of matter before the Industrial Court.

7. In my considered opinion, there was no reason to appoint complainant as a Museum Keeper in absence of abolition of post which complainant was holding. The learned Industrial Court

rightly appreciated the facts and allowed the complaint. I do not see any reason to interfere in the well reasoned order in view of supporting documents. Accordingly, petition stands dismissed.

(SMT. M.S. JAWALKAR, J.)

Jayashree..