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Court : Mumbai Aurangabad

Decided On : Aug-01-2016

Judge : S.S. Shinde & Sangitrao S. Patil

Appeal No. : Writ Petition No. 11799 of 2015

Appellant : Ashok

Respondent : The State of Maharashtra, Through the Secretary of Village Development and Water Conservation Department and Others

Judgement :

Oral Judgment: (S.S. Shinde, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the parties, the Petition is taken up for final disposal at the admission stage.

3. Petitioner is serving as clerk in Village Panchayat, Kurha, Tq. Muktainagar, Dist. Jalgaon since 1987. Respondent no.4/Zilla Parishad prepares seniority list of employees, who are serving in Gram Panchayat every year. Seniority list is prepared with a view to absorb 10% of employees from Village Panchayat in the services of Zilla Parishad on suitable post from Class III and Class IV categories. It

is the contention of the petitioner that by-passing his claim in the seniority list, employees juniors to him in the seniority list have been taken in employment in Zilla Parishad. Age limit prescribed for absorbing candidates in Zilla Parishad service is stated to be 45 years. However, it has been pointed out by the petitioner that the employees who have crossed 45 years of age have also been absorbed in Zilla Parishad thereby relaxing criteria of upper age limit. The petitioner, therefore, requests for direction to Zilla Parishad to consider his claim for appointment on Class III post in Zilla Parishad by relaxing criteria of age.

4. We have perused the seniority list produced on record. On perusal of the list, it transpires that the name of the petitioner is at Sr. No.149. The candidates at Sr. No.166, 172, 359 and 448 by names Vasant Pandit Bari, Shivaji Atmaram Wagh, Kisan Sukhdev Kadam and Sunil Ramrao Pawar respectively have been accommodated in Zilla Parishad superseding the claim of the petitioner.

5. The learned counsel appearing for Respondent No.4 has not filed affidavit in reply inspite of time granted on 07.07.2016 by way of last opportunity and has once again prayed for grant of time for filing reply. The said prayer is rejected. Thus, the pleadings/grounds taken in this Petition remained uncontroverted on behalf of respondent no.4.

6. On going through the seniority list as well as orders of appointment issued in favour of various candidates from the aforesaid category, we are convinced that the claim of petitioner has been wrongly denied. The petitioner has been discriminated in the matter of promotion by Zilla Parishad without there being any justifiable reason. Considering the facts and circumstances of the matter, we do not find any impediment in issuing the directions as prayed for by the petitioner.

7. We, therefore, allow the petition and direct respondent no.4 to issue order of absorption of the petitioner in class III cadre in Zilla Parishad, by granting relaxation of age, as expeditiously as possible, and preferably within three months from today. The Respondent/ Zilla Parishad is also directed to settle the claim of petitioner in respect of his appropriate placement in the seniority list and shall also extend all the benefits admissible to him pursuant to his placement in the seniority list. Respondent/Zilla Parishad shall comply with the directions within the time

stipulated above.

8. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

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