

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 285 of 2023 (D.B.)**

Shri Satish S/o Kisan Raut,
Aged about 58 years, working as Kamadi,
in the office of Aashram School Purada,
Tah. Devari, Dist Gondia.
R/o ward no. 5, Deori, Post Deori, Distt. Gondia.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Tribal Development, Mantralaya, Mumbai.
- 2) Head Master,
Government Secondary and higher secondary Aashram School,
Purada, Tah. Devari, Dist. Gondia.
- 3) Sub-Divisional Officer, Gondia,
at Sub Divisional Office, Gondia,
Dist. Gondia, Maharashtra.
- 4) The District Collector, Gondia,
at Gondia.
- 5) Project Officer,
Ekatomik Adivasi Development Project,
Devari, Dist. Gondia.
- 6) Additional Commissioner,
Tribal Development, Gripeth, Nagpur-32.
- 7) The Divisional commissioner Nagpur, Civil lines, Nagpur.

Respondents.

**S/Shri P.D. Ganvir, B.G. Khobragade, Advs. for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 01/04/2024.

J U D G M E N T

Heard Shri P.D. Ganvir, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for respondents.

2. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc.

3. The learned P.O. has filed reply on behalf of respondent no.5. It is taken on record. The matter is admitted, heard and decided finally with the consent of learned counsel for both the parties.

4. The Case of the applicant in short is as under –

The applicant was working as a Mustering Assistant w.e.f. 01/12/1990. The applicant was absorbed by respondent no.2 on the post of Kamathi, i.e., Class-IV post w.e.f. 07/06/1997 and as per the G.R. dated 01/12/1995. The State Government has issued the G.R. dated 21/04/1999 to absorb the Mustering Assistant in Class-III post. It is the submission of the applicant that he should be absorb in Class-III category. The respondent no.5 has proposed as per the letter dated 16/11/2015 to absorb the applicant in Class-III category. The

respondents have not complied the same. Hence, the applicant approached to this Tribunal for the following reliefs –

“ (I) That applicant be absorbed in a Class III cadre.

(II) That the services of the applicant be treated in Class-III cadre from his appointment to respondent no.2.

(III) Grant the applicant back wages from the date of his appointment to respondent no.2 School according to Class-III cadre.”

5. The O.A. is strongly opposed by the respondents. It is submitted that the applicant had approached before the Hon'ble Bombay High Court by filing the Writ Petition No.96/2006 along with other Petitioners. The Hon'ble High Court was pleased to pass the order on 14/02/2006 with a direction to the concerned Collector to consider the case of Mustering Assistant that, if they are found eligible for absorption in Group-C. Accordingly, the applicant has filed representation on 03/03/2006 before respondent nos.4 and 7 i.e. the Collector, Gondia and Divisional Commissioner, Nagpur respectively. The applicant had also filed Contempt Petition which was subsequently withdrawn by him. The process of absorption of Mustering Assistant Group-C & D has been done by the concerned Collector in accordance with the availability of the posts in different department. In view of the application made by applicant on 14/01/2008, the Tahsildar, Gondia has specifically informed to the applicant, as per letter dated 26/03/2008 that seniority list of Mustering

Assistant who have been absorbed in Group-C cadre in 26/05/1993 to 31/05/1993 has been declared and published to accommodate them in Group-C cadre and necessary direction is awaited from the Department and further action would be taken after receipt of direction. It is submitted that the applicant is not qualified and he is not eligible. Hence, the O.A. is liable to be dismissed.

6. During the course of submission the learned counsel for applicant Shri P.D. Ganvir has pointed out the G.R. dated 21/04/1999. The material portion of the G.R. is reproduced below –

“ In short, the Muster-Assistants, who are working on Employment Guarantee Scheme, shall be given an appointment in Group D category on any posts as per their eligibility; similarly they shall be given the appointments in Group - C non - gazetted category according to their educational qualification; but according to their educational qualifications, they would be absorbed on the lowest pay-scale in that Group. For example- if a Muster-Assistant is holding qualifications as 10th pass and degree in Arts, Science Faculty, then he would be absorbed as Clerk in the pay - scale of Rs. 3050/- But, he will not be given an appointment on the higher post like Senior Clerk/Head Clerk etc., Further, if a Muster-Assistant is holding qualifications as Engineering/Diploma, then he would be absorbed on lowest post as Junior Engineer in the pay-scale of Rs. 5500-9000/-.”

7. The learned counsel for applicant has submitted that the applicant has passed 10th standard examination. The applicant is not having qualification of degree. As per the G.R. dated 21/04/1999, the respondents have to considered the applicant.

8. Heard learned P.O. for respondents Shri A.P. Potnis. As per his submission, the process of accommodation as per the order passed by the Hon'ble High Court is going on and the respondents will take decision.

9. Looking to the proposal made by respondent no.5 dated 16/11/2015, the following order is passed –

ORDER

(i) The O.A. is partly allowed.

(ii) The respondents are directed to consider the claim of applicant as per proposal of respondent no.5 dated 16/11/2015 within a period of three months from the date of receipt of this order.

(iii) No order as to costs.

Dated :- 01/04/2024.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 01/04/2024.