

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 66 of 2021 (DB)

Bharat S/o Manoharrao Suradkar,
Aged about 29 years, Occu : Shipoi,
R/o Gajanan Nagar, Ward No.17,
Taluka Chikhali -443 201
Dist. Buldhana.

Applicant.

Versus

- 1) The Secretary,
Department of Agricultural,
Animal Husbandry, Dairy Development and
Fisheries, 5th floor, Mantralaya, Mumbai-32.
- 2) Dairy Development Commissioner,
Administrative Building,
Khan Abdul Gaffar Khan Marg,
Worli Sea Face, Mumbai-18.
- 3) Regional Dairy Development Officer,
Amravati Region, Congress Nagar, Amravati-444 601.

Respondents.

Shri S.M. Khan, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman.
And
Hon'ble M.A. Lovekar, Member (J).

Date of Reserving for Judgment : 30th November,2022.

Date of Pronouncement of Judgment : 6th December, 2022.

JUDGMENT

Per : Member (J).

(Delivered on this 6th day of December, 2022)

Heard Shri S.M. Khan, learned counsel for the applicant and Shri Shri M.I. Khan, learned P.O. for the respondents.

2. Case of the applicant is as follows –

Father of the applicant died in harness. By order dated 30/06/2018 (Annex-A-1) the applicant was appointed on compassionate ground on Group-D post of Peon. Clause 10 of this order stated –

“ (१०) सदर नियुक्ती गट- क पदाच्या उपलब्धतेअभावी आपल्या विनंती अर्जांनुसार गट-ड मधील रिक्त पदावर तात्पूरती नियुक्ती देण्यात येत असुन भविष्यात गट-क मधील पद उपलब्ध होताच आपणांस गट-क पदावर प्राधान्याने नियुक्ती करण्यात येईल.”

The applicant made a representation dated 28/12/2018 (Annex-A-2) that he be appointed on a Group-C post. By communication dated 16/02/2019 it was informed –

“ त्या अनुषंगाने अमरावती विभागांतर्गत गट-क निम्नस्तर लिपीक-नि-टंकलेखक या संवर्गात मंजूर सरळसेवेतील ७ पदांपैकी ७ पदावर सध्यास्थितीत कर्मचारी कार्यरत असुन १ कर्मचारी अतिरिक्त असे एकुण ८ कर्मचारी कार्यरत आहेत. सरळसेवेकरिता पदावर नियुक्ती करतेवेळी शासन निर्णयातील तरतुदीनुसार प्रमाणित बिंदुनामावलीप्रमाणे आरक्षीत पदावर खुला प्रवर्गातील कर्मचा-यांची नियुक्ती करता येणे शक्य नाही. श्री. सुरडकर यांची नियुक्ती ही गट-ड मध्ये खुला प्रवर्गात झालेली असल्यामुळे भविष्यात सरळसेवेतील लिपीक-नि-टंकलेखक गट-क या संवर्गातील खुला प्रवर्गातील रिक्त पद उपलब्ध होताच सेवा जेष्ठतेनुसार त्यांची नियुक्ती नियमानुसार प्राधान्याने करण्यात येईल. तेव्हा सदर बाब आपले स्तराहुन संबंधीताचे निदर्शनास आणुन देण्यात यावी.”

3. In view of G.Rs. dated 23/08/1996 (Annex-A-4) and 20/12/1996 (Annex-A-5) the respondents are duty bound to honour

the assurance given by them through Clause 10 of the letter of appointment. Hence, this O.A.

4. Reply of respondents 1 to 4 is at pages 24 to 30. It is their contentions that the only Group-C post to which the applicant can be appointed is that of Clerk-cum-Typist, however, at present there is no vacant post of Clerk-cum-Typist and as and when such vacancy occurs the applicant shall be accommodated. Their further contention is that the applicant cannot be accommodated on any other Group-C post like Office Superintendent, Head Clerk or Senior Clerk regard being had to age and experience stipulated by the Recruitment Rules which the applicant does not possess.

5. In his rejoinder the applicant has relied on para 16 of G.R. dated 21/09/2017 (Annex-R-2) which reads as under –

“ (१६) पद उपलब्धते अभावी गट-क मधील पदाऐवजी गट-ड मधील पदावर नियुक्ती देताना अनुसरावयाची कार्यपध्दती -

गट-क मधील पदांवर अनुकंपा तत्वावर नियुक्तीसाठी पात्र असणा-या कर्मचा-याला पदाच्या उपलब्धतेअभावी गट-ड मधील पदांवर नियुक्ती दिल्यास पद उपलब्ध होताच गट-क मधील पदावर त्याला प्राधान्याने नियुक्ती देण्यात यावी. अशी नियुक्ती सरळसेवा नियुक्तीने भरण्यात येणा-या पदांवरील समजण्यात यावी. मात्र गट-क मधील पदावर अनुकंपा योजनेन्वये नियुक्ती देण्याच्या आदेशात तसा स्पष्ट उल्लेख करण्यात यावा, तसे करण्यात आले तरच गट-क मधील पदावर नियुक्त देता येईल. (शासन निर्णय, दि.२३/०८/१९९६) ”

This para cannot be pressed into service to contend that the applicant should be considered fit for all Group-C posts like Office Superintendent, Senior Clerk and Head Clerk though as per the

Recruitment Rules he does not fulfil the criteria for holding any of these posts.

6. The applicant has relied on the Judgment of this Tribunal dated 09/07/2019 in O.A. No.554/2016. In the said case the applicant was appointed on a Group-D post though Group-C post for which he was possessing eligibility, was vacant and hence this Tribunal directed that the applicant be given deemed date of appointment to Group-C post from the date of his initial appointment and grant him all consequential benefits. On the other hand, in the case before us when the applicant was appointed there was no vacancy of Group-C post of Clerk-cum-Typist. This lack of vacancy continues till today. Under these circumstances, the O.A. can be disposed of by directing the respondents to suitably accommodate the applicant on a Group C post as and when such vacancy arises. The respondents shall suitably accommodate the applicant on a Group C post on a priority basis as and when such vacancy arises.

7. With these directions, the O.A. is disposed of with no order as to costs.

(M.A.Lovekar)
Member (J)

(Shree Bhagwan)
Vice Chairman

Dated :- 06/12/2022.

dnk.

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 V.C. and Hon'ble Member (J).

Judgment signed on : 06/12/2022.

Uploaded on : 07/12/2022*