

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMABI
BENCH AT AURANGABAD.**

DIST. AURANGABAD.

ORIGINAL APPLICATION NO.535/2016.

Ravindra s/o Pandurang Salve,
Age 33 years, Occ. Legal Practitioner,
R/o Hamalwada, Galli No.2, Near
Railway Station , Aurangabad,
Tq. & Dist. Aurangabad.

-- **APPLICANT**

VERSUS

1. The State of Maharashtra
Through its Secretary,
Public Works Department,
Mantralaya, Mumbai-32.

(Copy to be served on C.P.O.
Maharashtra Administrative
Tribunal, Mumbai).

2. Chief Engineer,
Public Works Department,
Marathwada Region,
Bandkam Bhavan,
Aurangabad, Tq. & Dist.
Aurangabad.
3. The Superintending Engineer,
Public Works Department,
Bandkam Bhavan, Aurangabad.
4. The Executive Engineer,
Public Works Department,
Padampura, Aurangabad,
Tq. & Dist. Aurangabad.

5. The Deputy Engineer,
Public Works Department,
(South)Sub Division, Aurangabad,
Tq. & Dist. Aurangabad.
6. The Assistant Engineer,
Public Works Department,
Padampura, Aurangabad.

-- RESPONDENTS.

APPEARANCE : Shri R. M. Deshmukh, learned Advocate for the Applicant.

: Shri I. S. Thorat, learned Presenting Officer for the Respondents.

CORAM : **Hon'ble Shri B. P. Patil, Member (J).**

DATE : 28-04-2017.

JUDGMENT.

(Delivered on this 28th day of April, 2017)

1. The applicant has challenged the orders dated 22.3.2016 and 11.4.2016 issued by the Respondentno.4 and Respondent no.3 respectively and sought direction to direct the Respondent no.3 to issue appointment order to him on Class III post as per the Govt. Resolution dated 10.11.2015.

2. The applicant is belonging to Scheduled Caste. He is B.A. LL.B and he is appearing for LL.M. examination for the academic year 2016-2017. Smt. Janabai Pandurang Salve is his mother. She was appointed as labourer in the office of the Respondents on

16.10.1975. Since then she was working as Labour and she was working as a Gangman / Tolkar. She retired from service on 30.6.2015. It is contention of the applicant that, in view of the G.R. dated 10.11.2015 the legal representatives (L.Rs) of Class IV employees working in the various department of the Govt. shall be appointed in service as per their educational qualification. Said G.R. is applicable to the Scheduled Caste and Scheduled Tribe members. It is contention of the applicant that, he is eligible for the appointment on Class III post in view of the said G.R. His mother had given consent on 9.3.2016 in view of the said G.R. for appointing him as her legal heir. Accordingly the applicant has submitted an application on 5.3.2016 to the Respondent no.4 along with necessary documents and the consent letter of his mother, and forwarded the copy to the Respondent no.3. The Respondent no.4 by letter dated 22.3.2016 informed him that he has no authority to give appointment to Class III employees and as the applicant is belonging to Scheduled Caste (Mahar) there is no provision in the G.R. to give appointment to him. Therefore, his application was returned back. The respondent no.3 by his letter dated 11.4.2016 informed the applicant that, his application for appointment on the Class III post was not as per rules and the recommendations of Lad-Page Committee are not applicable to him and therefore, he disposed

of his application. It is contention of the applicant that, the orders passed on 22.3.2016 and 11.4.2016 by the Respondent No.4 & 3 are against the resolution / decision of the Govt. as per G.R. dated 10.11.2015 and therefore, the said orders are illegal. It is his contention that, as per said G.R. he is eligible to be appointed on Class III post after retirement of his mother. He has complied the necessary requirements and therefore, the respondents no.3 and 4 ought to have allowed his application and appointed him on Class III post after retirement of his mother. Therefore, he prayed to quash and set aside the order dated 22.3.2016 and 11.4.2016 issued by Respondents no.4 & 3 respectively, and also sought direction to Respondent no.3 to issue appointment order to him on Class III post as per G.R. dated 10.11.2015.

3. The respondents filed affidavit in reply and contended that, mother of the applicant namely Janabai Pandurang Salve was serving as Tolkar / Labourer with the Respondents and she was never appointed as Sweeper or Scavenger Labourer in their office. Therefore, the applicant is not eligible to be appointed after her retirement. It is their contention that respondent no.2 published the G.R. dated 10.11.2015 and the said G.R. pertains to Class IV employees, who are appointed as Sweeper/Scavenger particularly

from Walmiki and Mehtar community and working in Govt. service. As per the G.R. the legal representatives of Sweeper only are entitled to be appointed on the post as per their qualification and eligibility criteria mentioned therein. It is their contention that the applicant is not eligible to be appointed on the Class III post after retirement of his mother as his mother was not serving as a Sweeper or Scavenger. Therefore, the G.R. dated 10.11.2015 is not applicable in case of the applicant. The respondents no.3 & 4 has rightly considered the provisions of G.R. dated 10.11.2015 and rejected the application. Therefore, they have prayed to reject the application.

4. I have heard Shri R. M. Deshmukh, learned Advocate for the Applicant and Shri I. S. Thorat, learned Presenting Officer for the Respondents. Perused the documents on record.

5. The learned Advocate for the applicant has submitted that, the applicant is a Member of Scheduled Caste (Mahar). He is B.A. LL.B and appeared for LL.M. examination in the year 2016-2017. He has submitted that, mother of the applicant namely Smt. Janabai Pandurang Salve was serving as a Tolkar / Labourer with the Respondents. She retired on 30.6.2015 from the service. The necessary entries are recorded in the Service Book of the mother of the applicant. He placed the copies of the relevant pages of the

Service Book on record. He has submitted that, in view of the G.R. dated 10.11.2015 legal representatives of Class IV employees belonging to Scheduled Caste and Scheduled Tribes are entitled to get appointment in the Govt. service as per their educational qualification, on submission of consent letter submitted by the Govt. employee. He has submitted that the mother of the applicant retired on 30.6.2015. She had given consent letter dated 9.3.2016 to give employment to her son i.e. the applicant in view of G.R. dated 10.11.2015. He has submitted that the applicant had filed an application on 5.3.2016 with the Respondent no.4 along with necessary documents and consent letter of his mother and forwarded copy of the letter to the Respondent no.3 and prayed to extend benefit of the said G.R. dated 10.11.2015 to him. He has argued that, thereafter the Govt. cancelled the G.R. and issued fresh G.R. dated 11.3.2016, which is as follows :-

- “३. लाड समितीच्या शिफारशी नुसार सफाई कामगारांच्या वारसांना शासकीय/निमशासकीय सेवेत देण्यात येणाऱ्या नियुक्ती संदर्भात पुनर्विचार करून संदर्भीय दिनां १०.११.२०१५ रोजीचा शासन निर्णय रद्द करून सुधारीत निर्णय खालीलप्रमाणे घेण्यात येत आहे.
१. वाल्मिकी, मेहेतर समाजाला सामाजिक, आर्थिक संरक्षण देण्यासाठी सफाई कामगारांच्या नियुक्तीबाबत लाड समितीने शिफारस केलेली वारसा पध्दत पुढे चालू ठेवण्यात यावी.

२. लाड समितीच्या शिफारशी जरी ४० वर्षांपूर्वी लागू केल्या असल्या तरी सद्यस्थितीत सदर शिफारशी चालू ठेवणे आवश्यक आहे. त्यानुसार शासन परिपत्रक, सामाजिक न्याय व विशेष सहाय विभाग क्र. सफाई २०१४/प्र.क्र. ०७/ महामंडळे दि. २६ फेब्रुवारी २०१४ अन्वये घेण्यात आलेली भूमिका कायम ठेवण्यात यावी.
३. सफाई कर्मचारी म्हणून सेवानिवृत्त झालेल्या किंवा होणाऱ्या अथवा स्वेच्छानिवृत्ती घेणाऱ्या किंवा सेवेत असताना निधन पावलेल्या अनुसूचित जातीमधील इतर सफाई कर्मचाऱ्यांच्या वारस किंवा नातेवाईक यांस सदर योजनेचा लाभ देण्यात यावा.
४. सदरहू निर्णय राज्यातील सर्व विभागातील सफाई कामगारांच्या वारसांना लागू राहतील.”

6. The learned Advocate for the applicant her further submitted that, in view of the said Govt. Resolution it is applicable to the legal heirs of the Govt. employees belonging to Scheduled Caste. He has submitted that, the Respondents no.3 & 4 had not considered the earlier G. R. dated 10.11.2015 with proper perspective and has wrongly rejected the application of the applicant on the ground that he is belonging to Scheduled Caste (Mahar) and therefore, G.R. is not applicable to him. He has further submitted that, the respondents no.3 & 4 had rejected the application without considering the resolution of the Govt. with proper perspective.

7. The learned Advocate for the applicant also placed reliance on the decision of the Hon'ble High Court of Judicature at Bombay,

Bench at Aurangabad in the case of “Sakhubai w/o Gorakh Agale Vs. The State of Maharashtra & Ors. reported in Writ petition No.1822/2015 decided on 1st August, 2016,” wherein the directions were given to the Respondents to reconsider the application of the applicant in that case within stipulated time.

8. The learned Presenting Officer has submitted that the G.R. dated 10.11.2015 as well the recent G.R. dated 11.3.2016 are applicable to the legal heirs of Sweepers belonging Walmiki/Mehtar and Scheduled Castes only. He has submitted that, though the applicant belonging to Scheduled Caste (Mahar) the said G.R. is not useful to him, as his mother was not serving as Sweeper with the Respondents. He had submitted that, the mother of the applicant namely Smt. Janabai Pandurang Salve was appointed as Tolkar / Labourer Gangman and therefore, applicant cannot take benefit of G.R. dated 10.11.2015 and 11.3.2016. He has submitted that, respondents no.3 & 4 had rightly rejected the application of the applicant and there is no illegality in the order issued by the Respondents and therefore, he prayed to reject the Original Application.

9. On perusal of the documents it reveals that, mother of the applicant Smt. Janabai Pandurang Salve was appointed as Tolkar / Labourer with the Respondents. She was retired as Tolkar /

Labourer on 30.6.2015. No doubt the applicant and his mother are Members of Scheduled Caste (Mahar). On perusal of the G.R. dated 10.11.2015 and G.R. dated 11.3.2016 it reveals that, the said decision had been taken by the Govt. to give appointment / employment to the legal representatives of the Sweepers belonging to Walmiki / Mehtar and Scheduled Caste. As the mother of the applicant namely Smt. Janabai Pandurang Salve never worked as Sweeper and she was appointed on the post of Tolkar / Gangman the G.R. dated 10.11.2015 and 11.3.2016 is not attracted in this case. The applicant is not entitled to get benefit under the said G.R. Therefore, he cannot claim employment in the Govt. service on the basis of the said G.R., which are applicable to the heirs of Sweepers of Walmiki / Mehtar and Scheduled Caste only. The respondents no.3 & 4 had rightly rejected the application of the applicant considering the provisions therein. There is no illegality in the order passed by respondents no.3 & 4 on 22.3.2016 and 11.4.2016 respectively. They have rightly considered the provisions of G.R. and rightly rejected the application of the applicant.

10. The decision of the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad referred above by the learned Advocate for the applicant is not attracted in this case, as the

applicant is not eligible to claim benefit under the G.R. dated 10.11.2015 and 11.3.2016 and therefore, no question of issuing direction to the respondents to reconsider the application of the applicant arises. Therefore, I do not find any substance in the submissions advanced by the learned Advocate for the applicant. There is no merit in the original application. Therefore, the application must fail. Hence, I pass the following order.

ORDER.

- (i) The Original Application is dismissed.
- (ii) No order as to costs.

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MEMBER (J)

