



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5780 OF 2021

Babasaheb Nivrutti Solse,
Age 45 years, Occu. Service,
R/o Aaghur, Tal. Vaijapur,
Dist. Aurangabad.

... Petitioner

Versus

1. The State Of Maharashtra
Through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai-32
2. The Block Development Officer,
Panchayat Samiti Vaijapur,
Tal. Vaijapur, Dist. Aurangabad
3. The Chief Executive Officer,
Zilla Parishad, Aurangabad,
Dist. Aurangabad.
4. The Village Development Officer,
Office of the Village Panchayat Aaghur,
Tal. Vaijapur, Dist. Aurangabad

...Respondents

...
Mr. Anant R. Devakate, Advocate for the Petitioner
Mr. P. K. Lakhotiya, AGP for Respondents/State
Mr. Shantaram R. Dheple, Advocate for Respondent No.3
...

**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, JJ.**

DATE : 04th MAY, 2026

ORAL JUDGMENT (PER : NITIN B. SURYAWANSHI, J) :-

1. Rule. Rule made returnable forthwith. Heard finally by
the consent of the parties.



2. The petitioner has put-forth prayer clause (B) as under:

“B. To direct the respondent No.3 to issue appointment/ selection order to the petitioner for the post of ‘Junior Assistant’ (Clerk) in the District Services Class III, by issuing writ of mandamus or certiorari or any other writ or any other order;”

3. There is no dispute that under a specific scheme, 10% employees eligible for promotion in the District Services Class III with the Zilla Parishad, are eligible for being promoted in such service. The Gram Panchayat has to recommend names of the eligible candidates and such 10% would include the senior most eligible candidates.

4. The petitioner belongs to the Scheduled Caste Category and possess caste validity certificate. He has successfully completed 12th Standard equivalent education from Y.C.M.O.U., Nashik in the year 2010 and has passed MS-CIT. He has also completed typewriting course of Marathi (30 w.p.m.) and English (30 and 40 w.p.m.). On 15.09.1997, petitioner joined respondent No.4 Village Panchayat as peon. He alleges that he was illegally terminated from service on 09.05.2017 and was reinstated as per the directions of the Deputy Commissioner of Labour, Aurangabad on 19.03.2019, with full back wages and continuity of service with effect from 09.05.2017. The Grampanchayat, Aghur filed reference before the Labour Court, Aurangabad challenging the order passed



by the Deputy Commissioner of Labour. The Labour Court directed to reinstate the petitioner with effect from 09.05.2017 with continuity of service and consequential benefits with 50% back wages.

5. Respondent No.1 vide notification dated 19.08.2005 directed that the employees serving with the Village Panchayats for more than 10 years shall be considered for direct recruitment in the District Services Class III and IV posts. Accordingly, respondent No.3 consolidated information of all the employees of Class III and IV posts and declared temporary seniority list on 17.07.2019, in which name of the petitioner is incorporated at Serial No.58. Thereafter, final seniority list was declared on 22.11.2019 in which the name of petitioner is included. Accordingly, respondent No.3 called the petitioner along with other eligible candidates for counseling on 24.12.2019. No objection was received against the name of petitioner. However, no appointment order was issued to the petitioner. On inquiry, he was told that respondent No.4 has communicated about removal of petitioner from services. Respondent No.4 called report of the petitioner from respondent No.2 vide letter dated 16.12.2019. However, before receipt of the said reports respondent No.3 issued appointment orders to other candidates for the post of Junior Assistant (Clerk) on 31.12.2019.

6. Learned advocate for Zilla Parishad submits that a



candidate who seeks benefit of District Services Class III out of 10% quota for Gram Panchayat, must put in the qualifying service of 10 years in continuous employment. In the counseling session held on 24.12.2019 it was noticed that for last more than three years petitioner was not in employment on account of unauthorized absenteeism. At the relevant time, he was not in employment with respondent No.4, therefore, he was held to be ineligible for consideration of District Services Class III quota. Hence, the respondents' concluded that the petitioner was not entitled for said post.

7. It is a matter of record that the Labour Court vide award dated 03.09.2025 declared the termination order dated 09.05.2017, issued by respondent No.4 as illegal and the same was cancelled. Respondent No.4 was directed to reinstate petitioner from the date of oral termination i.e. 09.05.2017 with continuity in service and consequential benefits of 50% back-wages from the date of oral termination.

In view of the award passed in favour of the petitioner, the petitioner is granted continuity in service with 50% back-wages, thereby bridging the gap on account of his alleged unauthorized absenteeism.

8. Based on these facts, legally, the break in service has been bridged. The petitioner, therefore, will have to be considered



as a candidate who is qualified for consideration as a candidate for selection for the post of Junior Assistant (Clerk) in District Services Class III, since continuity of service has been granted to him by the Deputy Commissioner of Labour.

9. In view of the above, the writ petition is allowed in terms of prayer clause (B), save and except in the event of there being no legal impediment. However, we deem it appropriate to observe, considering the past record of the petitioner that in the event the petitioner is appointed by the Zilla Parishad and he indulges in act of unauthorized absenteeism with the Zilla Parishad after being inducted as a Junior Assistant (Clerk), the Zilla Parishad would initiate strict disciplinary action against him and there shall be no compromise if such a misconduct is noticed.

10. Rule is made absolute in the above terms.

(VAISHALI PATIL JADHAV, J.) (NITIN B. SURYAWANSHI, J.)