

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 2529 OF 2014**

BABASAHEB VISHWANATH NAVGIRE
VERSUS
ZILLA PARISHAD, AURANGABAD AND ANOTHER

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Advocate for Petitioner : Mr. Shahane Pradeep L.
AGP for Respondent/State : Mr. M.M. Nerlikar

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: April 06, 2015
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PER COURT :-

This Court while issuing notice to the respondents indicated that, Petition will be disposed of finally at the admission stage itself, however, inspite of service, none appears for the respondents.

2. It is the case of the petitioner that, he belongs to the scheduled caste and passed his 7th standard. He has worked as peon with the Gram Panchayat Dawala in Aurangabad district for more than 25 years. On 14.06.2012 the petitioner was absorbed in the service of the Respondent No.1 as per the order of the Respondent No.1 dated 14th June, 2012 and in view of the Government decision of the absorption of Gram Panchayat employees in the respondent no.1 Zilla Parishad in the Category of Class III and Class IV persons on the basis of 10% reservation. In furtherance of

the letter of absorption dated 14th June, 2012 the petitioner has joined the service with the Respondent no.2 on the post of Male Nurse on 02.07.2012 in the pay scale of Rs. 4440-7440 at Veterinary Hospital Bhaur, Tq. Vaijapur. It is the case of the petitioner that, thereafter on 11/12.12.2012 the respondent no.2 sent a letter to the Member, Divisional Caste Scrutiny Committee at Aurangabad with proposal of the petitioner for verification of caste certificate submitted by the petitioner. The petitioner in support of his caste claim placed on record various documents on 20.12.2012. The Respondent No.1 issued eligibility certificate stating therein that, the petitioner is holding the required educational qualification, age and he is medically fit to discharge his duties. It is further the case of the petitioner that, when the caste claim of the petitioner for verification of Caste Certificate was pending before the Caste Scrutiny Committee, the Respondent No.1 has issued a letter dated 07/10.01.2013 to Respondent No.2 stating therein that, as the petitioner has not submitted the caste validity certificate within the prescribed period of 6 months from the date of joining the services of the petitioner shall be terminated and the petitioner shall be removed from the service. Based on the order of Respondent No.1, referred hereinabove, the Respondent No.2 issued consequential order dated 19th June, 2013 through which order the services of the petitioner have been brought to an end. On 23rd January, 2013 the petitioner submitted the representation to the Respondent No.1 requesting to reinstate the petitioner in service on the condition of submission of the caste validity

certificate within the prescribed period, however, the said was not considered favourably. The Divisional Caste Scrutiny Committee validated the caste certificate of the petitioner as per the certificate of validity dated 14th March, 2013. On 30th April, 2013 to that effect the communication from the Secretary of the said Committee has been received by the petitioner. After receipt of the said certificate, on 29th July, 2013 and 3rd October, 2013, the petitioners preferred representations for reinstatement, however, his request was not favourably considered. Hence this Petition aggrieved by the decision of the employer terminating the services of the petitioner on the ground of not submitting the caste validity within prescribed period.

3. The learned counsel appearing for the petitioner invited our attention to the validity certificate issued in favour of the petitioner that, the petitioner belongs to scheduled caste.

4. Since the certificate of validity is issued in favour of the petitioner and even at the time of terminating the services of the petitioner, his claim for verification was pending before Respondent No.2 – Committee, in our opinion, Respondent No.2 should not have terminated the services of the petitioner. In that view of the matter and in view of the fact that, the certificate of validity is already issued in favour of the petitioner, we are inclined to allow this Petition.

5. So far, back wages for the period for which the petitioner was out of employment, the counsel appearing for the petitioner, on instructions, makes a statement that, the petitioner is ready to forgo the said amount towards back wages.

6. In the light of discussion hereinabove, the Petition is allowed in terms of prayer clause `D'. However, we make it clear that, the petitioner will not be entitled for back wages for the period for which he was out of employment on account of his termination/removal from the services. However, the petitioner will be entitled for all other benefits including continuity in service etc., w.e.f. initial date of appointment.

7. The Petition is allowed to the above extent and same stands disposed of.

(**P.R. BORA, J.**)

(**S.S. SHINDE, J.**)

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