

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

WRIT PETITION NO.4464 OF 2014 WITH
CIVIL APPLICATION NO.15638 OF 2015

Shri Abdul Hameed s/o Abdul Raoof
Age 57 years, Occ. Jr. Employment & Self
Employment, Guidance Officer,
R/o House No.41821-P, Dada Colony,
Near Masjid Kirana, Aurangabad
District Aurangabad PETITIONER

VERSUS

1. The State of Maharashtra
Department of Employment,
Self Employment Skill & Development
through its Secretary,
(Copy to be served on the
Government Pleader, High Court of
Bombay, Bench at Aurangabad)
2. The Commissioner,
Employment, Self Employment Skill &
Development Directorate,
Maharashtra State,
Kokan Bhavan, 3rd Floor (Extension),
C.B.D. Belapur, New Mumbai.
3. Deputy Director,
Employment, Self Employment Skill &
Development, Divisional Head Quarter,
Vikas Bhavan, 4th Floor, Adalat Road,
Aurangabad.
4. The Assistant Director,
University Employment & Self
Employment Information &
Guidance Center,
Dr. B.A.M. University Campus,
Aurangabad. RESPONDENTS

Shri A.S. Golegaonkar, Advocate for petitioner
Shri M.B. Bharaswadkar, A.G.P. for State

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CORAM: R.M. BORDE &
 A.I.S. CHEEMA, JJ.

DATED: 4th December, 2015.

ORAL JUDGMENT (PER R.M. BORDE, J.):

1. Heard. Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, the petition is taken up for final disposal at the admission stage.

2. The petitioner was appointed as a Clerk through the Regional Sub-ordinate Selection Committee, Aurangabad in the Department of Employment and Self Employment Directorate. The petitioner was given promotion during the service career and at the time of his retirement, he was holding the post of Junior Employment Officer. The petitioner is objecting to the communication issued by the respondents on 7.5.2014 directing him to produce the caste validity certificate issued in his favour certifying that he belongs to Momin caste, which is included in O.B.C. category. The communication appears to have been issued under the belief that the petitioner has gained employment as a candidate belonging to reserved category. However, according to the petitioner, he has not been appointed

as against reserved category vacancy available for O.B.C. category nor has been promoted as against a reserved category promotional post. This fact has not been controverted by the respondents. However, in an affidavit-in-reply presented on behalf of respondents No.1 to 4, it has been categorically stated that there is no record to demonstrate that the petitioner has been appointed as against a vacancy available for the reserved category nor he has gained promotion on the basis of the reservation and as an employee belonging to aforesaid reserved category.

3. Since the petitioner has neither been appointed against reserved category vacancy nor has gained promotion during his service career as against a reserved category promotional post, there was no reason for the respondents to direct him to submit his caste validity certificate to the Department. It is not a matter of dispute that the petitioner has retired on attaining the age of superannuation and it is his grievance that his terminal benefits have been withheld on account of pendency of the instant petition.

4. Considering the facts and circumstances of the case, the Writ Petition deserves to be allowed and same is accordingly allowed. The communication issued by the respondent No.4 on

7.5.2014 directing the petitioner to submit caste validity certificate is quashed and set aside.

5. The petitioner shall be extended the terminal benefits since he has already retired on attaining the age of superannuation expeditiously.

6. Rule is accordingly made absolute. No costs.

7. In view of disposal of the Writ Petition, Civil Application No.15638/2015 does not survive and same stands disposed of.

(A.I.S. CHEEMA, J.)

(R.M. BORDE, J.)