

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

WRIT PETITION NO. 6103 OF 2015

HANUMANT CHANDRAKANT AKOSKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WRIT PETITION NO. 6192 OF 2015

SHRIRAM MURLIDHAR KENDRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

Advocate for Petitioners : Mr. S.M. Vibhute
AGP for Respondents: Mr. S.S.Tope
Advocate for Respondents : Mr. D.S.Bagul for R.2, Mr. P.S.Patil For
R.No.3.
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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.

Dated: August 04, 2015
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PER COURT :-

1. Mr. Vibhute, the learned counsel for the petitioner states that petitioners were appointed from the Reserved Category i.e. Scheduled Tribe Category with the Respondent No.2 in August, 2014 as a Conductor. The respondent No.2 itself forwarded the proposal to the respondent No.3 regarding validation of the Tribe Claim of the petitioner, however, on 24.3.2015 the services of the petitioners were terminated on the ground that validity certificate is not yet submitted. Learned counsel submits that, validation proceedings are pending with the respondent No.3 Committee. No decision has been taken by the Respondent No.3 Committee on the same. It is not in the hands of the petitioners to get the proceedings decided within a stipulated period. Learned counsel

relies on the Government Resolution dated 12.12.2011 (page 18) which states that action can be taken after invalidation.

2. Mr. Patil, the learned counsel for the Committee accepts that the proceedings in respect of the petitioners tribe claim are pending with the Committee.

3. Mr. Bagul, learned counsel for respondent No.2 Employer submits that, the petitioners are appointed from the Reserved Category, as they have not submitted validity certificate within time, services of the petitioners are rightly terminated.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Once the proposal is referred with the Committee, the Committee is seized with the matters. It would not be within the control of the petitioners to get the proceedings decided within a particular time frame. Proceedings are still pending with the Committee. Learned counsel submits that it would take some time to decide the proceedings. It was inappropriate on the part of the respondent employer to terminate the services of the petitioner only on the ground that as yet validity is not submitted as proceedings are still pending.

6. In the result, we pass following order.

ORDER

I. The impugned order is quashed and set aside.

II. The Respondent No.2 Employer shall reinstate the petitioner on his original post. The petitioners will not be entitled for back wages from the date of termination till the date of reinstatement.

III. The respondent shall reinstate the petitioner within 15 days. Of course the same would be subject to the decision of the Committee in the validation proceedings. Though back wages are not awarded, however, said period shall be considered for the purposes of continuity in service and other purposes.

7. Writ Petitions accordingly disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-