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

WRIT PETITION NO. 8372 OF 2015

Shri Ashok s/o Uttamrao Thakur
age 59 years, occ. Retired
r/o N-11, C-1, 16/8, Gajanan Nagar
HUDCO, Aurangabad. .. **PETITIONER**

VERSUS

1. The State of Maharashtra
Department of Finance
Mantralaya, Mumbai 32

2. The Joint Director (Accounts & Treasuries)
Aurangabad Division
"Lekha Kosh Bhawan" 2nd Floor
Aurangabad 431 001.

3. The Scheduled Tribe Certificate
Scrutiny committee, Nandurbar
through its member secretary.

4. Accountant General
Nagpur. .. **RESPONDENTS**

Mr. S. C. Yeramwar, advocate for petitioner.
Mr. U.S. Mote, AGP for the State.
Mr. K.D. Bade Patil, advocate for respondent no.3.

=====

CORAM : R.M. BORDE &
P. R. BORA, JJ.
DATE : 2nd SEPTEMBER, 2015.

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

1. Leave to add party respondent.

2. Heard.

3. Rule. Rule made returnable forthwith. With the consent of the

parties, petition is taken up for final disposal at admission stage.

4. Petitioner, who is an retired employee of the Accounts department of State of Maharashtra, is seeking directions to respondent no. 2 to forward his pension papers to the Accountant General i.e. respondent no. 4 herein without insisting for submission of caste validation certificate. Petitioner is also praying for issuance of directions to respondent State to grant provisional pension and other pensionary benefits like gratuity, leave encashment etc. and release monetary benefits forthwith without submission of caste validation certificate since the petitioner has already retired on attaining age of super annuation on 31.05.2014.

5. Petitioner was initially appointed as Junior Clerk in the office of Senior Treasury Officer, Aurangabad on 16.5.1986. He earned promotion to the post of Senior Clerk and, thereafter was promoted to the post of Deputy Accountant / Senior Accountant. On attaining age of super annuation, petitioner stood retired on 31.05.2014. Since initial appointment of petitioner was as against the seat earmarked for Scheduled Tribe category candidate, tribe certificate issued in his favour was forwarded to the Scheduled Tribe Certificate Scrutiny Committee, Nasik on 09.02.1999. It appears that the proposal was thereafter transmitted by the Nasik Committee to Auragabad Committee for verification. After establishment of Nandurbar Committee, the proposal was against transmitted by Aurangabad Committee to the said Committee on 18.03.2013. Petitioner states that the Caste Verification Committee has not rendered decision in

the matter. As a result of failure of petitioner to submit validation certificate, his employer has refused to send pension papers to the Accountant General for further process. Communication has been issued on 18.06.2015 informing petitioner to submit caste validation certificate immediately and, it is further warned that unless validation certificate is issued, the pension papers would not be forwarded to the concerned authority.

6. It cannot be controverted that the State Government has taken decision to regularise employment of such of those employees who have been appointed prior to 15.06.1995, irrespective of their failure to submit validation certificate. In the instant matter, petitioner was appointed in the year 1986 and is covered by the policy decision taken by the State Government. Even if the proposal in respect of validation claim gets rejected, the petitioner who stood retired on attaining age of super annuation cannot be denied pensionary benefits. It is an error on the part of respondent no. 2 to withhold submission of pension papers to the Accountant General on the ground of failure of petitioner to submit validation certificate.

7. In the facts and circumstances of the case, we direct respondent no. 2 to forward pension papers of petitioner to respondent no. 4 – Accountant General, Nagpur, as expeditiously as possible, preferably within a period of six weeks from today. The Accountant General, Nagpur, shall conduct due scrutiny of the pension papers and take final decision in respect of

admissibility of pension, within a period of six months from the date of receipt of same from respondent no. 2. Petitioner shall appear before respondent no. 3 – Scrutiny Committee on 21.09.2015 and, the Scrutiny Committee shall take decision on the proposal, as expeditiously as possible, preferably within a period of six months thereafter. Respondents shall release other pensionary benefits such as gratuity, leave encashment etc., as expeditiously as possible, preferably within a period of six months from today. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(P. R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

dyb