

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.6925 OF 2013

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.M.S.Deshmukh, advocate for the petitioner.
Mr.K.G.Patil, Addl. Govt. Pleader for the State.
Mr.A.B.Tele, advocate for Respondent No.3.

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA, JJ.**

Date : 27.01.2015.

PER COURT :

1. Heard.
2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.
3. Mr.Deshmukh, learned counsel submits that the petitioner was appointed as a Watchman in the year 1989. In the year 1991 was promoted as Compose Reservists and on 30.4.1997 was promoted as Assistant Machineman and is working on the said post since then. The petitioner is appointed from the Reserved category. The tribe claim of the petitioner has been invalidated, however, there is no finding of fraud. The learned counsel submits that in view of the judgment of the Full Bench of this Court in the case of

“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others” reported in **2015 (1) Mh.L.J. 457**, the services of the petitioner be protected, more particularly, when there is no finding of fraud. After 30.4.1997, the petitioner has not been given benefit of promotion, the petitioner would not claim further benefit on the basis of reservation.

4. Mr.Patil, learned Addl. Govt. Pleader submits that the petitioner is appointed from reserved category and as his tribe claim is invalidated, the action can be taken by the employer.

5. Mr.Tele, learned counsel for the Committee submits that the petitioner has to submit his certificate with the Committee.

6. We have considered the submissions canvassed by the learned counsel for respective parties. The factual matrix as narrated above is not disputed.

7. The Committee while invalidating the tribe claim of the petitioner has not observed that the tribe certificate was obtained by fraud. It is because of lack of evidence, the tribe claim was not proved, the certificate was invalidated.

8. As the petitioner is appointed in the year 1989 and is promoted in the year 2001, the said appointment and promotion can be protected in view of the judgment of the Full Bench of this Court in the case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** referred supra. However, hence-forth

i.e. since the year 2001, the petitioner would not be entitled for the benefits of reservation.

9. In the result, we pass the following order :

a) The Respondents shall not take any adverse action against the petitioner only on the ground that his tribe claim has been invalidated. The petitioner hence-forth shall not claim any benefits of reservation either for promotion or in any walk of life. The Committee shall cancel and confiscate the tribe certificate of the petitioner. The entry of the same shall be taken in the service book of the petitioner.

b) Rule accordingly made absolute in above terms. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..27.01.2015.
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