

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 8723 OF 2005

ANANT BHAGWAT KALE

VERSUS

STATE OF MAH & ORS

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Advocate for Petitioner : Mr. A S Golegaonkar

AGP for Respondents State: Mr. P. N. Mule

Advocate for Respondents 1, 3, and 4: Mr. R.B. Salve

Advocate for Respondent No.5: Mr. A. B. Dhongade

Advocate for respondent No.2: Mr. P. S. Patil

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CORAM : S. V. GANGAPURWALA &

V. L. ACHLIYA , JJ.

DATE : 30th January, 2015

PER COURT :

1. Mr. Golegaonkar, the learned counsel for the petitioner submits that the tribe claim of the petitioner has been invalidated. The learned counsel submits that he has taken instructions from the petitioner that the petitioner waives claim with regard to his status as belonging to Mahadeo Koli-ST, however, the petitioner be given protection in service as is considered by the Full Bench of this Court in case of **Arun Vishwanath Sonone Vs. The State of Maharashtra and others** reported in **2015 (1) MLJ 457**.

2. According to the learned counsel, the petitioner is appointed in the year 1998 as Helper and was also a permanent employee. In the year 2005, he has been terminated on the ground that his tribe claim has been invalidated. According to the learned counsel, the tribe claim is invalidated only on the ground of lack of evidence and there is no finding of fraud,

misrepresentation or forgery.

3. Mr. Dhongade, the learned counsel for the employer submits that the petitioner has taken benefit of reservation at the time of appointment. His tribe claim is invalidated and as such, rightly terminated from service.

4. We have heard the learned counsel for the respective parties.

5. In view of the petitioner now not assailing the judgment of the committee invalidating his tribe claim, we are not going into merits of the judgment given by the committee in respect of the tribe claim of the petitioner. It is not disputed by the respondent employer that the petitioner was appointed in the year 1998 as Helper and has become permanent employee and in the year 2005 the petitioner was terminated solely on the ground that his tribe claim has been invalidated.

6. We have gone through the judgment of the Committee. The Committee has invalidated the tribe claim of the petitioner only on the ground that evidence was short to prove the status. There is no finding of any fraud, misrepresentation or forgery on the part of the petitioner. In view of the judgment of the Full Bench of this Court referred supra, the petitioner can be granted protection in service, however subject to condition.

7. In the light of above we pass the following order:

i. Judgment of the Committee invalidating the tribe claim of the

petitioner is upheld. The order to termination dated 23.12.2005 issued by respondent No.5 is quashed and set aside.

- ii. The respondent No.5 shall reinstate the petitioner on his original post, however, without any back wages but with benefit of continuity in service.
 - iii. The petitioner, henceforth, shall not be entitled of reservation in his service on in his any walk of life. Entry of the same shall be taken in the service book of the petitioner. The tribe certificate shall stand cancelled and confiscated by the Committee.
8. Rule is accordingly made partly absolute. Writ petition is accordingly disposed of. No costs.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC