

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

WRIT PETITION NO.9837 OF 2014.

Pathan Shakil Ahmed Khan
S/o Ahmed Shah Khan,
Age 52 years, Occ.Service,
R/o Mumtaz Colony, Dhar Road,
Parbhani, Tq, & Dist.Parbhani. ... Petitioner.

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32,
through its Secretary.

2. The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Aurangabad Division,
Aurangabad, through its
Member Secretary.

3. The Divisional Controller,
Maharashtra State Road
Transport Corporation Ltd.,
Parbhani, Dist.Parbhani. ... Respondents.

...

Mr.A.S.Golegaonkar, advocate for the Petitioner.
Mr.P.N.Mule, Asstt. Govt. Pleader for the State.
Mr.K.D.Bade Patil, advocate for Respondent No.2.
Mr.S.S.Panale, advocate holding for Mr.A.D.Wange,
advocate for Respondent No.3.

...

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

Date : 02.02.2015.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, taken up for final hearing.

3. Mr.Golegaonkar, learned counsel submits that the petitioner was appointed in the year 1994 as a typist. According to the learned counsel, under misconception, the petitioner has filed an application on 15.5.2014 with the Committee that the petitioner does not want to proceed with the validation proceedings in respect of the tribe claim. However, subsequently on 31.10.2014 had withdrawn the said application and had asked the Committee to proceed further with the validation proceedings. However, on 31.10.2014 itself the Respondent terminated the services of the petitioner. According to the learned counsel, the petitioner be allowed to prosecute his validation proceedings and the petitioner be reinstated.

4. Mr.Panale, learned counsel submits that the petitioner was appointed from the reserved category i.e. ST category. The petitioner had taken benefit of reservation. He is appointed in July 1995. The petitioner filed an application that he does not want to proceed with the validation proceedings. Considering the same, the services of the petitioner are rightly terminated. No illegality is committed by the Respondents.

5. Mr.Bade Patil, learned counsel for the Committee states that the petitioner earlier had given application stating that he does not want to proceed with the validation proceedings. Subsequently has changed his mind.

6. We have considered the submissions canvassed by the learned counsel for respective parties. The application asking Committee not to proceed further with the validation proceedings is dated 15.5.2014 and the application to the Committee stating that the validation proceedings be decided is dated 30.10.2014. It appears that

the copy of the subsequent application dated 30.10.2014 could not be received by the employer and the services of the petitioner are terminated on 31.10.2014. Subsequently the petitioner has shown his willingness to proceed with the validation proceedings. We are not deciding as to what is date on which the petitioner is appointed in the present Writ Petition as protection is not sought on the said ground.

7. Considering above, we pass the following order :

a) The Respondent-Committee shall proceed with the validation proceedings in respect of the tribe claim of the petitioner and shall decide the same expeditiously, preferably within one (1) year. The petitioner shall cooperate in expeditious disposal of the said proceedings.

b) The impugned order passed by the Respondent-employer terminating the services of the petitioner is quashed and set aside. The petitioner will not be entitled for back wages

from the date of termination till date of this order, however, the said period shall be counted for the purpose of continuity in service. The Respondent-employer shall be entitled to proceed further in accordance with the judgment of the Committee in the validation proceedings.

c) The Writ Petition is accordingly disposed of. No costs.

(V.L.ACHLIYA, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp983714

With Best Compliments :

Justice Sanjay V.Gangapurwala.

Mrs.Sangeeta Sanjay Gangapurwala.

