

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10441 OF 2015

Nanda W/o Ramesh Borewad
Age: 59 years, occu: retired teacher,
R/o Nilkanth Nagar, Near Sanjay Nagar,
Puchharvata, Old Jalna,
Tq. Jalna, District: Jalna

Petitioner

Versus

- 1 The State of Maharashtra,
through : Secretary,
School Education Department,
Mantralaya, Mumbai
- 2 The Chief Executive Officer,
Zilla Parishad, Jalna
District: Jalna
- 3 The Education Officer (Primary),
Zilla Parishad, Latur,
District. Latur
- 4 The Block Education Officer,
Panchayat Samiti Jalna
Dist. Jalna
- 5 The Head Master,
Central Primary School, Sindhi Kalegaon
Tq. Jalna, Dist. Latur
- 6 The Accountant General
Office of Accountant General
Account & Entitlement, II
Nagpur, Dist. Nagpur
- 7 The Schedule Tribe Certificate
Verification Committee, Aurangabad
Through It's Deputy Director (R)
Aurangabad

Respondents

Mr. Vibhute Sunil M. advocate for the petitioner
Mr.S.N. Kendre AGP for respondent State.
Mr. Smbhaji S. Tope Advocate for Respondents No.2 to 4
Mr. Ashok B. Tele, Advocate for respondent No.7
Mr. P.S. Patil Advocate for respondent No.6

CORAM : R.M. BORDE &
P.R. BORA, JJ

Dated : 20th OCTOBER, 2015.

ORAL JUDGMENT

(Per : R.M. Borde, J)

1 Heard.

2 Rule.

3 With the consent of the parties, petition is taken up for final hearing at admission stage.

4 The petitioner is praying for direction to respondent No.3 to forward the pension papers to respondent No.6 and for further direction to concerned respondent to consider her claim for grant of pension and pensionary benefits, without insisting for tribe validation certificate.

5 The petitioner claims to belong to Mannervarlu, scheduled Tribe (ST) and was inducted in employment as an Assistant Teacher, as against a vacancy prescribed for ST category, in the year 1986. The petitioner was in employment until the date of her

retirement on attaining age of superannuation i.e. 31.5.12015. Although the tribe certificate issued in favour of the petitioner has been transmitted to the ST Verification Committee, Aurangabad, the proposal has not yet been considered and no decision has been rendered by the Committee. The Education Officer, as a result of failure of the petitioner to tender validation certificate, has refused to forward the pension papers to respondent No.6 and directed the petitioner to tender validation certificate.

6 It must be noted that, even otherwise, since the petitioner was appointed in the year 1986, in view of the law laid down by this Court in various judgments as well as in the recent Judgment of full bench in case of **Arun S/o Vishwanath Sonone V/s State of Maharashtra and others** (2015 (1) Mh.L.J.457), the petitioner is entitled to claim service benefits. The issue has become redundant, since the petitioner has already retired on attaining age of superannuation on 31.5.2015. Since the petitioner was continued in employment for number of years, she has earned the pension and pensionary benefits, as a matter of right and such right cannot be denied to the petitioner, on any count.

7 In the facts of the case, this petition can be disposed of by issuing directions to respondent No.3 to forward the pension papers to the respondent No.6, as expeditiously as possible and

preferably within six weeks from today and it is accordingly directed. Respondent No.6 shall consider the claim of the petitioner for grant of pension and pensionary benefits and shall direct release of amount as expeditiously as possible and preferably within a period of four months from the date of receipt of proposal. All the respondents are directed not to deny pensionary benefits to the petitioner, only on account of her failure to submit validation certificate.

8 Rule is accordingly made absolute.

9 There shall be no order as to costs.

(P.R. BORA, J)

(R.M.BORDE, J)