FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4582/2015

(MOHAN DHANRAJ APOTIKAR **VERSUS** DIVISIONAL CONTROLLER, STATE ROAD TRANSPORT CORPORATION, AKOLA & ANOTHER)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri M.V. Bute, counsel for the petitioner.
Shri V.G. Wankhede, counsel for the R-1.
Ms T.H. Udeshi, A.G.P. for the R-2.

CORAM : SMT. VASANTI A. NAIK AND PRASANNA B. VARALE, JJ.

DATE : NOVEMBER 24, 2015.

By this petition, the petitioner seeks a direction to the respondent no.1-Corporation to reinstate the petitioner on the post of Conductor in view of the judgment of the Full Bench, reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*).

According to the petitioner, the petitioner was appointed by the respondent no.1-Corporation on the post of Conductor on 18.11.1997 from the Scheduled Tribes category. The caste claim of the petitioner was referred to the Scrutiny Committee for verification and the Scrutiny Committee invalidated the caste claim of the petitioner. The petitioner's services were terminated in view of the invalidation of the caste claim, on 22.03.2001. The petitioner has sought his reinstatement and the protection of his services.

Shri Wankhede, the learned counsel for the respondent no.1-Corporation, states by referring to the order of appointment dated 18.11.1997 that the petitioner was not appointed as a regular Conductor by the respondent no.1-Corporation by following the due procedure of law and was appointed on temporary basis, as and when the services of the

petitioner were required. It is stated that the petitioner was asked to work on daily wages by the appointment order and the respondent no.1-Corporation had agreed to provide work to the petitioner as and when it was available. It is stated that it is clear from the appointment order that neither was the petitioner appointed by following the due process of law nor was the appointment of the petitioner made on regular basis. It is stated that the services of the persons like the petitioner cannot be protected by relying on the judgment of the Full Bench.

On hearing the learned counsel for the parties and on a perusal of the judgment of the Full Bench, it appears that the services of the petitioner cannot be protected. No direction could be issued to the respondent no.1-Corporation to reinstate the petitioner in service. The petitioner was not appointed as a regular Conductor by the respondent no.1-Corporation and the appointment of the petitioner was purely temporary on daily wages, as and when the work was available. There is nothing on record to show that the petitioner had attained permanency. There is also nothing on record to show that the petitioner was brought on regular time scale. It would be necessary for the petitioner to prove that the petitioner was brought on regular time scale before the cut-off date, to seek the protection of his services in view of the judgment of the Full Bench. In the case of employees that were similarly appointed, this Court had declined to grant the relief of protection. It would be necessary to refer to the order dated 20.11.2015 in Writ Petition Nos.5003/2015, 5004/2015, 5005/2015 and 5006/2015.

In the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE **JUDGE**

APTE