

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4096 OF 2015

[Ramesh s/o Ramaji Botare .vs. Maharashtra State Road Transport Corporation, MSRTC, Nagpur]

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

Court's or Judge's orders

Shri C.V. Jagdale, counsel for the petitioner,
Shri V.G. Wankhede, counsel for the respondent.

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CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : SEPTEMBER 28, 2015.

By this petition, the petitioner seeks the protection of his services, after his reinstatement, in view of the law laid down by the full bench, in the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others].

The petitioner was appointed on 14.5.2000 as a Driver by the respondent-corporation on a post earmarked for the scheduled tribes. The petitioner claims to belong to Gond-Gowari and the caste claim of the petitioner was sent to the scrutiny committee for verification. The scrutiny committee invalidated the caste claim of the petitioner by an order dated 18.4.2012. Immediately the services of the petitioner were terminated on 30.4.2012 after invalidation of his caste claim.

Shri Jagdale, the learned counsel for the petitioner states that the petitioner was appointed before the cut-off date in the year 2000 and there is no observation in the order of the scrutiny committee, dated 18.4.2012 that the petitioner had fraudulently secured the benefits meant for Gond-Gowari Scheduled Tribe. It is stated that, in the circumstances of the case, the judgment of the full bench would be squarely applicable to the case of the petitioner. It is submitted that a direction is required to be issued to the respondent-corporation to reinstate the petitioner in service and protect the services.

Shri Wankhede, the learned counsel for the respondent-corporation states, on instructions, that a post of Driver is still vacant in the respondent-corporation and the respondent-corporation would reinstate the petitioner in view of the judgment, rendered by the full bench. It is, however, stated that the petitioner would not be entitled to claim the salary and other monetary benefits for the period during which he was out of service.

On hearing the learned counsel for the parties, we find that the case of the petitioner stands squarely covered in favour of the petitioner in view of the full bench judgment. The petitioner was appointed before the cut-off date and there is no observation in the order of the scrutiny committee that the petitioner had fraudulently secured the benefits meant for the Gond-Gowari Scheduled Tribe. It appears that the caste claim of the petitioner was rejected as the petitioner could not prove the same on the basis of the documents and the affinity test.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent-corporation is directed to reinstate the petitioner in service, on the condition that the petitioner furnishes an undertaking in this court and to the respondent-corporation within a period of four weeks that neither the petitioner nor his progeny would claim the benefits meant for Gond-Gowari Scheduled Tribes, in future. The respondent-corporation should reinstate the petitioner within a period of two weeks from the date of submission of the undertaking. It is needless to mention that the petitioner would not be entitled to the salary and other monetary benefits for the period from the date of his termination till the date of his reinstatement. The petitioner would also not be entitled to any promotional benefit on the basis of his caste claim. Though the petitioner would not be entitled to the claim of monetary benefits for the intervening period, the petitioner would be entitled to the continuity of service. Order accordingly. No costs.

JUDGE

JUDGE