

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4088 /2015

(Shri Ashok s/o Narayanrao Dekate vs. Mah.State Road Transport Corporation Wardha)

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

Court's or Judge's order

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Mr. C.V Jagdale, Advocate for the petitioner
Mr. V.G.Wankhede, Advocate for the Respondent

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

DATED : 8th September, 2015.

Heard.

By this petition, the petitioner seeks protection of his services in view of the law laid down by the Full Bench of this Court in the judgment, reported in **2015 (1) Mh.L.J. 457 (Arun Sonone vs.State).**

The petitioner was appointed as a Conductor by the respondent-Corporation before the cut off date, on 9.3.1998. The appointment of the petitioner was made on a post reserved for the Scheduled Tribes. The petitioner claims to belong to "Halba" Scheduled Tribe and the claim of the petitioner was sent to the Scrutiny Committee for verification. The Scrutiny Committee invalidated the claim of the petitioner by an order dated 5.3.2015 and the respondent-Corporation terminated the services of the petitioner, by the order dated 27.5.2015. The petitioner has sought his

reinstatement in service as the petitioner was appointed before the cut off date and there is no observation in the order of the Scrutiny Committee that the petitioner has illegally or fraudulently secured the benefits meant for “Halba” Scheduled Tribe.

Shri V.G.Wankhede, the learned counsel for the Corporation does not dispute that the petitioner was appointed in the year 1998 and that there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for “Halba” Scheduled Tribe. It is stated that if the petitioner is directed to be reinstated, the petitioner should not claim the salary for the period during which he was out of service.

On hearing the learned counsel for the parties and on a perusal of the Full Bench judgment, it appears that both the conditions that are required to be satisfied while granting protection, are satisfied in the case of the petitioner. The petitioner was appointed before the cut off date in the year 1998 and there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for “Halba” Scheduled Tribe. Since the case of the petitioner is squarely covered by the judgment of the Full Bench, it is necessary to direct the respondent-Corporation to reinstate the petitioner and protect his services.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The respondent-Corporation is

directed to reinstate the petitioner in service with continuity of service, on the condition that the petitioner furnishes an undertaking to the respondent-Corporation and in this Court, within a period of four weeks, that neither the petitioner nor his progeny would claim the benefits meant for “Halba” Scheduled Tribe, in future. The petitioner would not be entitled to claim the salary for the period during which he was out of service. The respondent-Corporation should reinstate the petitioner in service within a period of fifteen days from the date of receipt of the undertaking.

Order accordingly. No costs.

JUDGE

JUDGE

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