

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

WRIT PETITION NO.4535 OF 2014

[Smt. Jyoti wd/o Yogesh Dhakate .vs. Maharashtra State Secondary and High Secondary Education Board, Pune and one]

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

Court's or Judge's orders

Shri N.C. Phadnis, counsel for the petitioner,
Shri P.B. Patil, counsel for the respondents.

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

DATED : JUNE 25, 2015.

By this petition, the petitioner challenges the order of her reversion dated 8.2.2010, from the post of Senior Clerk to the post of Junior Clerk.

The husband of the petitioner by name Yogesh was in the services of the respondents from 26.1.1986. The appointment of the husband of the petitioner was made on a post earmarked for the Scheduled Tribes. After the death of the husband of the petitioner while in service, the petitioner was appointed on the post of Junior Clerk on compassionate ground.

It is the case of the petitioner that the petitioner was promoted on the post of a Senior Clerk on 1.7.1998 from the open category. According to the petitioner, however, on the invalidation of her tribe claim, the respondents illegally reverted the petitioner from the post of Senior Clerk to the post of Junior Clerk, by the impugned order dated 8.2.2010. The petitioner challenges the reversion on the ground that her promotion was not on the post reserved for the Scheduled Tribes and hence the action on the part of the respondents in reverting the petitioner is bad in law.

Shri Patil, the learned counsel for the respondents has tendered the copy of the minutes of the meeting dated 27.11.1996,

conducted for the selection and promotion of the employees in various categories. From the minutes of the meeting, it is pointed out by the learned counsel for the respondents that the petitioner was considered for promotion from the Scheduled Tribe category. It is stated that the petitioner was placed at sr. no.5 in the list of candidates/employees, who were considered for promotion from the Scheduled Tribes category. It is stated that though the petitioner was placed at sr.no.5 in the said category, the petitioner was promoted as the four candidates, who were placed above the petitioner in the list of the candidates from the scheduled tribe category, were not entitled to promotion up to 1.9.1998. It is stated on the basis of the extract of the meeting dated 27.11.1996 maintained by the respondents that the petitioner was promoted on the post of Senior Clerk from the Scheduled Tribe category only and her promotion was not from the open category. The learned counsel has also referred to the document annexed to the petition at Annexure-K, dated 13.1.2012 in which the petitioner had accepted her reversion and consented to the same.

On hearing the learned counsel for the parties and on a perusal of the documents tendered by the learned counsel for the respondents in the court today, it appears that the case of the petitioner that she was promoted on the post of Senior Clerk from the open category is untrue. The documents tendered by the learned counsel for the respondents in the court, clearly show that the petitioner was promoted on the post of Senior Clerk from the scheduled tribe category. Admittedly, the husband of the petitioner had also secured the job with the respondents in the year 1986 on a post that was earmarked for the Scheduled Tribes. The petitioner must have claimed the promotion on the post of Senior Clerk in the year 1996 from the Scheduled Tribe category, as her caste claim was subsequently invalidated on 28.5.2004. The petitioner had accepted her reversion by the communication annexed to the petition at Annexure-A and had consented to the same. It appears that there was a change of mind subsequently as the petitioner has filed this petition after a period of four years from her reversion. The reversion order was passed by the respondents on 8.2.2010 and the petition has been filed on 16.7.2014.

The petitioner has not sufficiently explained the inordinate delay. The petition also suffers from laches.

Hence, for the reasons aforesaid, the writ petition is dismissed, with no order as to costs.

JUDGE

JUDGE

Gulande