

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

WRIT PETITION No. 3916/2014.

Ashok Harishchandra Lavhrakar

-VERSUS-

Chief Engineer (HR Cell) Maharashtra State Elec. Transmission Co. Ltd. And others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI
& P.N. DESHMUKH, JJ.**

DATE : OCTOBER 06, 2015.

Heard Shri N.R. Saboo, learned Counsel
for the petitioner and Shri D.M. Kale, learned Counsel
for respondents. Perused reply affidavit.

2. The administrative decision to extend
protection to backward class employees whose claims
have not been invalidated or are pending for
consideration, after they give up the same, is
incorporated in administrative circular no. 375 dated
24.07.2013. According to the respondents, the
impugned order dated 11.07.2014 has been passed on
the basis of this administrative circular.

3. Shri Saboo, learned counsel submits that
having given the date 15.06.1995 to petitioner as Sub-
Engineer, the circular dated 24.07.2013 cannot be

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used to deny him promotion which open category Sub-engineers, who joined on 15.06.1995 and there about, have got before 24.07.2013. According to him, the administrative circular dated 24.07.2013, at the most may enable the petitioner to claim benefits as O.B.C., from said date, however, as juniors who joined in open category after 15.06.1995, have already been promoted as Junior Engineers, the promotion earned by the petitioner as Junior Engineer on 17.10.1998, cannot be denied and petitioner cannot be reverted back on the post of Sub Engineer.

4. Shri Kale, learned Counsel for respondents submits that petitioner earned promotion as junior engineer on 17.10.1998, as a Scheduled Tribe candidate. As caste certificate was never submitted for verification and he is seeking benefit for protection in employment as an OBC candidate, according to him in this situation, the decision taken by the Management is just and proper.

5. The impugned order itself shows that protection in employment to petitioner is given from 15.06.1995. 15.06.1995 is the date of Government Resolution by which the State Government has

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extended similar protection to its employees and to employees with local bodies. The said order vide its clause [c] adds that service of petitioner as Sub-engineer shall be computed from 15.06.1995.

6. We find substance in contentions of Shri Saboo, learned counsel that petitioner was working on work charge establishment, he has been regularized and that his absorption in that cadre has nothing to do with his caste, as there cannot be any reservation at that juncture. According to him, therefore services can be protected from 15.06.1995, but, that does not mean that the petitioner has become Sub Engineer on 15.06.1995. The date of joining cadre of Sub-engineer will have to be the date on which the petitioner became entitled to absorption.

7. Shri Kale, learned counsel for respondents points out that this is not the grievance made. He also adds that terms and conditions of the administrative circular dated 24.07.2013, are not assailed before this Court.

8. Perusal of paragraph no.10 of the Writ Petition shows that the petitioner has made a grievance that other Sub-engineers, junior to him, are

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already working as junior engineers after their promotion. Thus because of the policy decision taken on 24.07.2013, the petitioner is being reverted to a lower post of Sub-Engineer and his date of entry into the cadre is being modified as 15.06.1995.

9. In this situation, as all relevant dates are not in record, we grant petitioner opportunity to make suitable representation pointing out all these facts and developments. If such representation is made within a period of four weeks from today, the respondent no.1 shall consider it independently on its own merit and uninfluenced by the observations made by us supra. It is clarified that the observations recorded supra, are only to indicate a need for giving petitioner such an opportunity. Respondent no.1 shall consider the representation and take suitable decision upon it within a period of three months.

10. With these directions and keeping all rival contentions open, we dispose of the writ petition. No costs.

JUDGE**JUDGE**

Rqd.