

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5613/2013

(Shri Dinkar s/o Baburao Kadu vs. Executive Engineer, Purna Madhyam Prakalp Division
Achalpur and another)

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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. M.V.Bute, Advocate for the petitioner
Mr. Nitin Rode, Assistant Govt, Pleader for the respondent no.1
Mr. S.G. Jagtap, Advocate for the respondent no.2

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

DATED : 11th September, 2015.

Heard.

By this petition, the petitioner seeks protection of his services after his reinstatement, in view of the judgment of the Full Bench, reported in **2015(1) Mh.L.J. 457 : (Arun Sonone vs.State)**.

According to the petitioner, the petitioner was appointed by the respondent-employer as a Draftsman on 20.7.1996. Since the petitioner was appointed on a post earmarked for the Scheduled Tribes, the caste claim of the petitioner was submitted to the Scrutiny Committee for verification. The Scrutiny Committee invalidated the caste claim of the petitioner by an order dated 30.9.1997. After the invalidation of the caste claim, the services of the petitioner were terminated on 29.12.1997. The petitioner has sought a direction to the respondent-employer to reinstate the petitioner in

service and protect his services as there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for “Mahadeo Koli” Scheduled Tribe.

Shri S.G. Jagtap, the learned counsel for the respondent-employer states that the petitioner cannot seek the benefit of the judgment of the Full Bench, cited *supra*. It is stated that the petitioner was not appointed on probation in a permanent vacancy and was temporarily appointed for a period of one month by the appointment order dated 20.7.1996 that is annexed to the petition. It is stated that it is clearly mentioned in the appointment order that the appointment of the petitioner was purely temporary and the same could be terminated with one month's notice. It was also made clear to the petitioner by the terms of the appointment order that the temporary appointment would stand cancelled if the petitioner fails to produce the caste validity certificate. It is stated that the petitioner was never confirmed as a Draftsman and just after period of one year of his appointment, the services were terminated by the order dated 29.12.1997. It is stated that in the circumstances of the case, when the appointment of the petitioner was purely temporary, the petitioner cannot seek the benefit of the judgment of the Full Bench.

On hearing the learned counsel for the parties and on a perusal of the appointment order, it appears that the petitioner cannot seek the benefit of the judgment cited *supra*, for protection of his services.

The appointment order clearly shows that the petitioner was appointed temporarily only for a period of one month and his services were liable to be terminated if he fails to produce the caste validity certificate. The appointment order clearly mentioned that the services could have been terminated with one month's notice. The petitioner was never confirmed in the service and the appointment of the petitioner was also not confirmed. In such a background, the petitioner cannot seek the relief of protection of his services by relying on the Full Bench judgment of this Court, more so when the petitioner was terminated more than twenty years earlier.

Since there is no merit in the petition, the Writ Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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