

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

WRIT PETITION NO.6433 OF 2013

Shankar S/o Narayan Lambate

-vs-

The Director of Accounts (Postal) Department of Posts, Nagpur

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

Court's or Judge's Orders.

Shri R. S. Parsodkar, Advocate for petitioner.
Mrs. Tanna, Advocate for respondent Nos.1 and 2.
Smt. S. W. Deshpande for respondent No.3.

**CORAM : B.P.DHARMADHIKARI &
A.S.CHANDURKAR, JJ.**

DATE : 27.01.2015.

Petitioner joined employment in 1980 and has retired on superannuation on 31/10/2013. Before his superannuation, on 09/10/2012 he was served with charge-sheet. The matter had earlier gone before the Central Administrative Tribunal (CAT) and while disposing of O.A.No.69/13 on 30/07/2013, the CAT has asked the Disciplinary Authority to take appropriate decision in the matter after considering the report of enquiry officer and the representation, if any, submitted by the petitioner.

Perusal of Article-1 of the charge-sheet shows that employee never supplied the original caste certificate for its verification by Scrutiny Committee. The petitioner replied to communication on those lines issued on 02/02/2009 and his reply is dated 04/03/2009. In that reply he stated that original caste certificate and other required documents were

already submitted by him to his employer while joining employment. The finding recorded by the inquiry officer and commented upon by present petitioner in this respect needs to be looked into by the Disciplinary Authority. However, facts show that almost over 32 years, no steps could be taken for verification of caste claim and petitioner has superannuated in 2010. Since then the petitioner is receiving only provisional pension. His gratuity, provident fund and other terminal benefits have not been released so far.

Shri Parsodkar submits that in similar situation, on 15/07/2014, this Court has allowed writ petition No.1031 of 2014. He contends that the only charge against the petitioner is not submitting validity and its beyond his means to supply it. He also relied upon the judgment of Hon'ble Apex Court reported in *AIR 2013 Supreme Court 3383 (State of Jharkhand & Ors. V. Jitendra Kumar Srivastava & Anr.)* to point out as to what pension means to a retired person.

The learned counsel appearing for respondents states that here charge was not of not providing validity but was of not submitting original caste certificate and other documents so as to enable the employer to forward the same to Scrutiny Committee. The inquiry officer has found charge proved and now matter is pending with Disciplinary Authority.

The question of protection available to petitioner (if any) can be gone into only after the appropriate orders of Scrutiny Committee. Here the matter has not yet gone to Scrutiny Committee. When Division Bench of this Court delivered the judgment on 15/07/2014 in W.P.No.1031 of

2014 the Full Bench judgment reported at **2015(1) Mh.L.J. 457 (Arun Vishwanath Sonone Vs. State of Maharashtra & Ors.)** was not available. Similarly the question before this Court is of an employee against whom there is allegation that he did not submit original caste certificate and other documents and did not co-operate with employer to get his caste claim verified through competent Scrutiny Committee. No finding of fact can be recorded at this stage.

Interest of justice therefore can be met with by directing the Disciplinary Authority to take suitable decision as directed by CAT in its order dated 30/07/2013 within a period of three months from today. However, there is no point in withholding the employee's provident fund or gratuity. The said amounts shall be released to him within four weeks from today.

With these directions and keeping all other contentions open for due evaluation after recording of finding and application of mind by Disciplinary Authority, we partly allow the writ petition and dispose of the same with no order as to costs.

JUDGE

JUDGE