

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2256 OF 2016

Tilotima D/o Sadanand Nande,
Age-60 years, Occu:Retired,
R/o-Behind Pushkar Hospital,
Kali Kurti, New Jalna,
Tq. & Dist-Jalna.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Tribal Development Department,
Through its Secretary,
Mantralaya, Mumbai-32,
- 2) The Scheduled Tribe Certificate,
Scrutiny Committee, Aurangabad,
Through its Deputy Director/Member,
- 3) The Tahsildar/ Executive Magistrate,
Aurangabad, Tq. & Dist-Aurangabad,
- 4) The Chief Executive Officer,
Zilla Parishad, Jalna,
Tq. & Dist-Jalna,
- 5) The Education Officer (Primary),
Zilla Parishad, Jalna,
Tq. & Dist-Jalna,
- 6) The Block Development Officer,
Panchayat Samiti, Badnapur,
Tq. Badnapur, Dist-Jalna.

...RESPONDENTS

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Mr.Pratap V. Jadhavar Advocate for Petitioner.
Mr.S.B. Pulkundwar, A.G.P. for Respondent
Nos. 1 to 3.
Mr. S.S. Tope Advocate for Respondent
Nos. 4 to 6.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 25TH FEBRUARY, 2016

ORAL JUDGMENT [PER R.M. BORDE, J.] :

1. Leave to add Accountant General, Nagpur, as party Respondent. The learned A.G.P. appears for Respondent Nos.1 to 3 and added Respondent. Mr. Tope, learned counsel appears for Respondent Nos. 4 to 6.

2. Heard. Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, the Petition is taken up for final disposal at admissions stage.

3. The Petitioner in this Petition, is

making grievance in respect of failure of Respondent Nos. 4 to 6 in processing the pension proposal of the Petitioner and forwarding the same to the Accountant General, Nagpur for consideration, merely on the ground that the Petitioner has failed to submit validation certificate.

4. The Petitioner was inducted in employment of Zilla Parishad in the year 1986 and has retired, on attaining the age of superannuation, on 30th June 2014. The Petitioner claims to belong to "Mannerwarlu" Scheduled Tribe category and she was appointed as against the seat earmarked for Scheduled Tribe category. The Scrutiny Committee by its order dated 17th July 2014, invalidated the caste certificate issued in favour of the Petitioner. The order passed by Scrutiny Committee was challenged in Writ Petition No.8828 of 2014 before this Court and Division Bench of this Court has allowed the Petition by order dated 29.09.2014

and quashed the order of Scrutiny Committee and remitted the matter back to Committee for reconsideration.

5. The reason quoted in communication dated 16th April 2015 is that since the Petitioner has failed to submit validation certificate her pension proposal has not been scrutinized, is illegal and devoid of any logic. If a person has served for required number of years with the employer, he/she is entitled to claim the pension and the pensionary benefits, and it shall be treated to have been earned by him/her by virtue of the service rendered for required number of years. Pensionary benefits cannot be with-held for such illogical reasons. It is also a policy of the State Government to accord protection to the employees who were inducted in employment prior to 2000, even if they fail to tender validation certificate or their caste certificates are found to have been invalidated by the Scrutiny

Committee. If an employee can be extended protection in employment, it is not understood why the person shall be deprived of the pensionary benefits, who was appointed way back in the year 1986 and has retired on attaining the age of superannuation.

6. For the reasons recorded above, Writ Petition deserves to be allowed and the same is accordingly allowed.

7. Respondent Nos.4 to 6 are directed to process the proposal of the Petitioner for grant of pension and forward the same to the Accountant General, Nagpur, in observance of the procedure prescribed in that behalf, as expeditiously as possible, and preferably within period of TWO MONTHS from today, without insisting for submission of validation certificate.

8. The Accountant General, Nagpur shall,

after receipt of the proposal, scrutinize the same and accord approval as expeditiously as possible, preferably within period of SIX MONTHS from the date of receipt of proposal, and claim for pension shall not be refused on the ground of failure of Petitioner to submit validation certificate. On receiving approval from Accountant General, Nagpur, the Zilla Parishad, Jalna shall release the pensionary benefits to the Petitioner within period of ONE MONTHS from the date of such approval.

9. Rule is accordingly made absolute in above terms. There shall be no order as to costs.

[A.I.S. CHEEMA, J.]

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[R.M. BORDE, J.]