

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 7077 OF 2011

Devidas s/o Zaga Baviskar

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. S.R. Barlinge, advocate for petitioner.
Mr. P.S. Patil, AGP for the State.
Mr. M.K. Goyanka, advocate for respondent no. 3.

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CORAM : R.M. BORDE &

K. K. SONAWANE, JJ.

DATE : 1st SEPTEMBER, 2016.

PER COURT :

Petitioner claims to be belonging to 'Tokre-Koli' Scheduled Tribe and was appointed as Conductor in the year 1982 as against the vacancy earmarked for Scheduled Tribe category. Petitioner was promoted to the post of Transport Controller by order dated 14.06.2001. Tribe certificate issued in favour of petitioner was referred for verification to the Scrutiny Committee by employer respondent no. 4 on 24.04.2011 and, it is informed that the tribe certificate verification proposal is pending with the Scrutiny Committee. As a result of failure on the part of petitioner to submit validation certificate, the employer directed his reversion to the post of Conductor by order dated 07.09.2011. Petitioner raises challenge to the said order in the instant petition and, this Court, while entertaining the petition, directed stay of the adverse order passed by the employer directing reversion of petitioner.

2. Petitioner informs that he is retired on attaining age of super annuation on 31.08.2016 and is entitled to claim retiral benefits. Since petitioner was appointed in the year 1982 and has been awarded promotional benefits in the month of June 2001, in view of Full Bench judgment in the matter of Arun s/o Vishwanath Sonone Vs. State of Maharashtra reported in **2015(1) Mh.L.J. 457**, he is entitled to claim protection in respect of initial employment as well as promotion on the post of Transport Controller which has been awarded by the department.

3. In the facts of the case, reasonable request made by petitioner on releasing retiral benefits deserves consideration. Writ petition therefore stands disposed of with directions to respondent no. 3 to release retiral benefits accruable by petitioner forthwith and the same shall not be withheld on account of failure of petitioner to submit validation certificate. Challenge raised in the instant petition to the order of reversion issued by the employer renders stale on account of continuation of petitioner on the promotional post by virtue of interim order passed by this Court as well as his retirement on attaining age of super annuation. Respondent no. 3 shall release retiral benefits as expeditiously as possible preferably within a period of three months from today. Writ petition stands disposed of accordingly.

(K. K. SONAWANE)
JUDGE

(R. M. BORDE)
JUDGE