IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9389 OF 2016

Vishwanath S/o Mahadu Renewad
age: 60 years, occu: Retired from service,
R/o Patnur, Tq. Ardhapur,
District: Nanded Petitioner

Versus

1 The State of Maharashtra,
Through Secretary,
Finance Department,
Mantralaya, Mumbai

2 The Director,
Directorate of Accounts & Treasuries,
New Government Building No.15 & 16,
Plot No.176, Free Press Journal Road,
Nariman Point, Mumbai – 21

3 The Education Officer (Primary)
'Sarva Shiksha Abhiyan'
Zilla Parishad Parbhani
Dist. Parbhani

4 The Accountant General,
Office of Accountant General
Account & Entitlement II, Nagpur,
Walkers Road, Seminary Hills Nagpur,
Dist. Nagpur

5 The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
through Its Dy. Director (R)
Aurangabad Respondents

Mr.S.M. Vibhute advocate for the petitioner

Mr.S.S. Dande, Assistant Govt. Pleader for Respondent No.1 & 2

Mr. P.P. Dama, advocate for respondent No.3

CORAM : **R.M. BORDE &**
K.K. SONAWANE, JJ

(Date : 15th September, 2016.)

ORAL JUDGMENT
(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final disposal at admission stage.

3 The petitioner claims to belong to Koli Mahadev, scheduled tribe and is in receipt of the caste certificate issued by the Competent Authority. The petitioner was inducted in employment as a typist in year 1979 as against a seat reserved for scheduled tribe. The petitioner was offered promotion to the post of Senior clerk on 18.6.1998. The petitioner has been awarded further promotion to the post of Assistant Accounts Officer after acquisition of necessary qualification on 19.4.2003. The petitioner has retired on attaining age of superannuation and is entitled to claim pensionery benefits. A proposal for pension has already forwarded by the Education Officer to respondent No.2 Director of Accounts and Treasuries.

4 It is the grievance of the petitioner that, respondent No.2 has not forwarded the proposal for approval to respondent No.4 on account of failure of the petitioner to submit validation certificate.

5 Since the petitioner has already retired on attaining age of superannuation, the pensionery benefits accruable to him cannot be withheld on account of his failure to submit validation certificate. Pension is the right earned by the employee by virtue of his continuance in employment for required number of years and such right to receive pension cannot be divested on such ground. Even otherwise, in view of the policy adopted by the State Government adopted in the year 1995 as well as in view of the Judgment of full bench of the High Court in the matter of *Arun Sonone vs. State of Maharashtra and others (2015 (1) Mh. L.J. 457*), the service of the petitioner who was employed in the year 1979 much prior to the year 2000 is liable to be protected even in absence of the validation certificate.

6 In this view of the matter, request made by the petitioner for issuance of direction to respondent No.2 to forward pension proposal to respondent No.4 for favourable consideration, deserves to be accepted. Respondent No.2 is directed to forward

the pension proposal received by respondent No.2 from respondent No.3 to the Accountant General i.e. respondent No.4 as expeditiously as possible and preferably within a period of four weeks from today for favourable consideration. Respondent No.4, on receipt of the proposal, shall dispose of the pension claim of the petitioner as expeditiously as possible and preferably within a period of four months from the date of receipt of the proposal. The claim of the petitioner for grant of pension shall not be rejected merely on the ground of his failure to submit validation certificate

7 With the directions as above, the writ petition is disposed of.

8 Rule is made absolutely accordingly.

(K.K. SONAWANE, J) (R.M.BORDE, J)

vbd