

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLN. NO. 329 OF 2016
IN
WRIT PETITION NO. 1083 OF 2015 (D)

Kishor Vithal Shrote

-vs-

The Scheduled Tribe Certificate Scrutiny Committee, Nagpur, thr. its Vice Chairman and others

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

Court's or Judge's Orders.

Mr. Anil Mardikar, Sr.Counsel with Mr.S.G.Joshi, counsel for the
 applicant/original petitioner.
 Mrs.Kalyani Deshpande, AGP for the respondent No.1.
 Mr. M.Y.Wadodkar, counsel for the respondent Nos.2 to 4.

CORAM : SMT. VASANTI A NAIK &
A.S.CHANDURKAR, JJ.

DATE : 22.07.2016.

By this review application, the applicant/petitioner seeks a review of the judgment, dated 22/02/2016.

Shri Anil Mardikar, the learned senior counsel appearing on behalf of the applicant, states that this Court has directed the respondent Nos.2 to 4-Bank to protect the services of the petitioner/applicant on the post of Cashier/Clerk on which he was initially appointed, in view of the judgment of the Full Bench, reported in 2015 (1) Mh.L.J. 457 (Arun Sonone v. State of Maharashtra). It is stated that though the petitioner was initially appointed as a Clerk-cum-typist on a post earmarked for the Scheduled Tribes, the applicant was not promoted on the promotional post on the basis of his caste claim and he was promoted in the general category. It is further stated that in view of the judgment of the Full Bench, reported in 2015 (1) Mh.L.J. 457 and specially paragraph No.72 thereof, the services of an employee on the promotional post could also be protected.

Shri M.Y.Wadodkar, the learned counsel for the respondent Nos.2 to 4-Bank, strongly opposes the case of the

applicant that he was promoted in the general category of employees and his promotion was not on the basis of his caste claim. The learned counsel has referred to the circular annexed to the counter affidavit, which refers to the minimum marks that are required to be secured by the general category candidates and the candidates belonging to the Scheduled Tribes to which the applicant claimed to belong. It is stated that the general category candidates are required to secure 30 marks in the written examination, whereas the qualifying marks for the Scheduled Tribes candidates are 28. It is stated that the applicant has secured only 28 marks in the written examination and this clearly shows that the applicant was promoted on the basis of his caste claim. It is stated that after the order of which the review is sought was passed, the applicant has been reverted to the post of Cashier-cum-Typist.

On hearing the learned counsel for the parties, we find that no case, whatsoever, is made out for reviewing the judgment, dated 22/02/2016. It is clear from the affidavit-in-reply filed on behalf of the respondent Nos.2 to 4-Bank that the applicant was promoted on the promotional post only on the basis of his caste claim and he was not promoted in the general category. We also do not find on a reading of paragraph No.72 of the judgment of the Full Bench that it would be necessary for this Court to protect the services of the employee on a promotional post, after his caste claim is validated. By taking a note of the judgment of the Full Bench, this Court has held in the judgment, dated 03/07/2015 in Writ Petition No. 2162 of 2015 (Sudhakar Mahadeorao Parate v. The Chief Officer, Nagar Parishad Warud and others) that the services of an employee cannot be protected on the promotional post.

In view of the aforesaid, we dismiss the miscellaneous civil application with no order as to costs.

JUDGE

JUDGE

C E R T I F I C A T E

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

Uploaded on : 26/07/2016