

IN THE COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH, NAGPURWRIT PETITION NO. 3290/2016(Kashinath s/o Mahadeo Tarale vs. Scheduled Tribe Caste Certificate Scrutiny Committee and another)

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 Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 of directions and Registrar's orders

Court's or Judge's order

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Mr. S.D.Khati, Advocate for the petitioner
 Mr. J.Y. Ghurde, Assistant Govt. Pleader for Respondent Nos.1
 Mr. V.G.Wankhede, Advocate for Respondent No.2

CORAM : SMT. VASANTI A.NAIK &
 MRS.SWAPNA JOSHI, JJ.

DATED : 22nd June, 2016

Heard.

By this Writ Petition, the petitioner seeks his reinstatement in service and further protection of his services, in view of the judgment of the Full Bench reported in **2015 (1) Mh.L.J. 457**.

The petitioner was appointed as a Driver by respondent-MSRTC on 20.10.1995, on a post earmarked for the Scheduled Tribes. The petitioner claimed to belong to 'Koli Mahadeo' Scheduled Tribe and the caste claim of the petitioner was referred to the Scrutiny Committee, for verification. The Scrutiny Committee invalidated the claim of the petitioner on 20.10.1999. However since the respondent no.2 -Corporation was not aware of the said decision, the petitioner was continued in service till his services were terminated on 16.2.2012. Since the petitioner was appointed

before a cut off date and since there is no adverse observation in the order of the Scrutiny Committee that the petitioner had fraudulently claimed the benefits meant for the “Koli Mahadeo” Scheduled Tribe, the petitioner has sought his reinstatement in service, in view of the judgment of the Full Bench. The petitioner has sought a direction against the respondent-Corporation to protect his services.

Shri V.G.Wankhede, the learned counsel for the Corporation does not dispute that the petitioner was appointed before the cut off date, on 20.10.1995, and there is no adverse observation in the order of the Scrutiny Committee that the petitioner had fraudulently claimed the benefits meant for the “Koli Mahadeo” Scheduled Tribe. It is stated that if this Court directs the reinstatement of the petitioner, the petitioner should not be held to be entitled to the monetary benefits for the period during which he was out of service.

On hearing the learned counsel for the parties and on a perusal of the order of the Scrutiny Committee, we find that the services of the petitioner are required to be protected since the petitioner was appointed before a cut off date and we find that no observation in the order of the Scrutiny Committee that the petitioner had fraudulently sought the benefits meant for the ‘Koli Mahadeo’ Scheduled Tribe. The caste claim of the

petitioner was invalidated as the petitioner was not able to prove his caste claim, on the basis of the documents and the affinity test. Both the conditions that are required to be satisfied while seeking the protection of services stand satisfied in the case of the petitioner.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The respondent no.2-Corporation is directed to reinstate the petitioner in service on the condition that the petitioner furnishes an undertaking in this Court and before the respondent-Corporation that neither the petitioner nor his progeny would claim the benefits meant for the "Koli Mahadeo" Scheduled Tribe, in future. The petitioner should furnish the said undertaking within a period of one month. The respondent-Corporation should reinstate the petitioner within a period of seven days from the date of receipt of the undertaking. It is needless to mention that though the petitioner would be entitled to continue in service, the petitioner would not be entitled to the arrears of salary for the period during which he was out of service and would also not be entitled to other monetary benefits that would flow from the order of continuity of service, for the period during which he was out of service.

Order accordingly. No costs.

JUDGE

JUDGE

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