

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

WRIT PETITION NO. 3649 /2016

Vinod s/o Devidas Chunkikar
Aged about 47 years
occupation: Service
R/o Pundlik Baba Nagar
Tower Line, VMV Campus
Amravati, Tah.& Dfist. Amaravati.

..PETITIONER

v e r s u s

- 1) Schedule Tribe Caste Certificate
Scrutiny Committee
Through its Member Secretary
Bhatkuli Road, Amravati.
- 2) The Divisional Controller
Maharashtra State Road Transport Corporation
Amravati.

...RESPONDENTS

.....
Mr. S.D.Khati, Advocate for petitioner
Mrs.Ritu Kalia, Assistant Government Pleader for
Respondent No.1
Mr. V.G.Wankhede, Advocate for Respondent no.2
.....

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

DATED : **21st July, 2016**

ORAL JUDGMENT: (PER SMT.VASANTI A. NAIK, J.)

Rule. Rule made returnable forthwith. The petition is heard finally at the stage of admission, with the consent of the learned counsel for the parties.

The only prayer made in the instant petition is for a direction to the respondent-Corporation to reinstate the petitioner in service and protect his services, in view of the judgment of the Full Bench, reported in **2015 (1) Mh.L.J. 457 (Arun Sonone vs. State)**.

The petitioner was appointed as a Helper in the respondent no.2-MSRTC, on 8.7.1995, on a post that was earmarked for the Scheduled Tribes. The petitioner claimed to belong to 'Mahadeo Koli' Scheduled Tribe and the caste claim of the petitioner was invalidated by the Scrutiny Committee, by the order dated 14th December, 2006. On the invalidation of the caste claim, the services of the petitioner were terminated by the respondent-Corporation, in the year 2012. In view of the judgment of the Full Bench, the petitioner has sought the protection of his services.

It is stated on behalf of the petitioner that the conditions that are required to be satisfied while seeking the protection of services, have been satisfied in the case of the petitioner inasmuch the petitioner was appointed before the cut off date in the year 1995 and there is no observation

in the order of Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for the 'Koli Mahadeo' Scheduled Tribe. It is stated that in this background, a direction to the respondent no.2 to reinstate the petitioner on the post of Helper would be necessary.

Shri V.G. Wankhede, the learned counsel for the respondent no.2 Corporation does not dispute that the petitioner was appointed before the cut off date and there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently secured the benefits meant for the 'Koli Mahadeo' Scheduled Tribe. It is stated that the petitioner would not be entitled for the monetary benefits for the period during which he was out of service.

It is clear from the statements recorded herein-above that the conditions that are required to be satisfied while seeking the protection of services stand satisfied in the case of the petitioner. The Scrutiny Committee has invalidated the caste claim of the petitioner merely because the petitioner was not able to prove the same on the basis of the documents and the affinity test. Since the petitioner has given up his caste claim, it would be necessary to direct the respondent-Corporation to reinstate the petitioner in service but without back wages, though the petitioner would be entitled to continuity of service.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The Respondent No.2-Corporation is directed to reinstate the petitioner on the post of Helper, on the condition that the petitioner furnishes an undertaking in this Court as well as to the respondent no.2-Corporation within four weeks that neither the petitioner nor his progeny would seek the benefits meant for 'Koli Mahadeo' Scheduled Tribe, in future. The Respondent-Corporation is directed to reinstate the petitioner within a period of two weeks from the date of furnishing of the undertaking. Though the petitioner would be entitled to reinstatement and continuity in service, the petitioner would not be entitled to the arrears of salary or other benefits flowing from the order of continuity of service, for the period during which he was out of service.

Rule is made absolute in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE

safare

C E R T I F I C A T E

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