

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

WRIT PETITION NO. 6575 OF 2015

Gangadhar s/o Vithobaji Sorte

-vs-

The Chief Executive Officer, Mah. Industrial Development Corporation 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. Ashish Paunikar, counsel for the petitioner.
Mr. M.M.Agnihotri, counsel for the respondents.

CORAM : SMT. VASANTI A NAIK &
KUM. INDIRA JAIN, JJ.

DATE : 21.09.2016.

By this writ petition, the petitioner challenges the order of the Maharashtra Industrial Development Corporation, dated 29/10/2015, reverting the petitioner on the post of Junior Engineer.

The petitioner was appointed as a Junior Engineer by the respondent-Corporation, on 01/02/1994. After rendering five years of service as a Junior Engineer, the petitioner was upgraded as an Assistant Engineer by an order, dated 06/07/1999, in pursuance of an office order, dated 12/07/1988. Since the petitioner was appointed as a Junior Engineer on a post reserved for the Scheduled Tribes, the caste claim of the petitioner was referred to the Scrutiny Committee for verification. The Scrutiny Committee has invalidated the caste claim of the petitioner by the order, dated 29/08/2012 and the said order has attained finality. In view of the invalidation of the caste claim of the petitioner, the respondent-Corporation reverted the petitioner on the post of Junior Engineer by the impugned order, dated 29/10/2015. The petitioner has challenged the said order in the instant petition.

Shri Paunikar, the learned counsel for the petitioner, submitted that the action on the part of the respondent-Corporation of

reverting the petitioner to the post of Junior Engineer is bad-in-law, as the petitioner was not promoted to the post of Assistant Engineer and he was only upgraded to the said post, in view of the office order, dated 12/07/1988. It is submitted that since the petitioner was not promoted and was only upgraded by the order, dated 06/07/1999, the respondent-Corporation could not have reverted the petitioner.

Shri Agnihotri, the learned counsel for the respondent-Corporation, has supported the impugned order. It is submitted that normally after the invalidation of the caste claim, the services of an employee are liable to be terminated, as the employee has secured the benefits meant for the particular caste or tribe. It is stated that since the petitioner was appointed on the post of Junior Engineer and not on the post of Assistant Engineer in terms of the Government Resolution, dated 29/10/2015, the services of the petitioner were protected, but only as a Junior Engineer. It is stated that it is well settled that an employee would be entitled to the protection of services only on the post of which he was appointed after the invalidation of his caste claim. It is stated that since the petitioner was appointed on the post of Junior Engineer, his services could be protected only on the said post. The learned counsel relied on the judgment of this Court, dated 03/07/2015 in Writ Petition No.2162 of 2015 (Sudhakar Mahadevrao Parate v. The Chief Officer, Nagar Parishad, Warud and others) to substantiate the submission that the protection of services would be on a post on which an employee was initially appointed.

On hearing the learned counsel for the parties, we do not find any illegality in the action on the part of the respondent-Corporation in reverting the petitioner to the post of Junior Engineer. The petitioner was appointed on 01.02.1994, on the post of Junior Engineer, that was earmarked for the Scheduled Tribes. After the petitioner's caste claim was invalidated, the services of the petitioner could have been protected only on the post on which he was initially appointed, i.e. the post of Junior Engineer, in view of the judgments rendered by the Hon'ble Supreme Court from time to time and the

judgment of the Full Bench of this Court, reported in 2015 (1) Mh.L.J. 457 (State of Maharashtra v. Arun Sonone). In the judgment, dated 03/07/2015 in Writ Petition No.2162 of 2015, this Court has held that an employee is entitled to protection only with regard to the initial employment and the protection would not be referable to the promotional benefits. In the instant case, the petitioner was upgraded to the post of Assistant Engineer, which is surely a higher post. Though the petitioner was required to perform the duties of a Junior Engineer, the pay scale was enhanced to that of an Assistant Engineer by the upgradation order, dated 06/07/1999. In view of the judgment, dated 03/07/2015 in Writ Petition No.2162 of 2015, the petitioner was not entitled to protection of his services on the post on which he was upgraded, i.e. the Assistant Engineer. The respondent-Corporation rightly reverted the petitioner to the post on which he was initially recruited, after the invalidation of the caste claim.

Since we do not find any illegality in the order of the respondent-Corporation, we dismiss the writ petition 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 : 22/09/2016