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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1387 of 2016**

Deepak Khapekar S/o Shri Shrawan Khapekar, Aged About 42 Years P. No. 300482, B.E. (Electronics) Assistant General Manager Power Systems Department Bhilai Steel Plant, Steel Authority Of India Limited, R/o House No. B-5, Chouhan Town, Junwani Road Bhilai, Tahsil & Distt. Durg, (Chhattisgarh)

---- Petitioner**Versus**

1. Union Of India Through: Secretary, Ministry Of Personnel, Public Grievances And Pensions Department Of Personnel & Training, Government Of India, New Delhi
2. Steel Authority Of India Limited, Through: Chairman, Steel Authority Of India Limited, Ispat Bhawan, Lodhi Road, New Delhi
3. Managing Director, Bhilai Steel Plant, Steel Authority Of India Limited, Ispat Bhawan, Bhilai Nagar, Tah & Distt Durg, (Chhattisgarh)
4. Executive Magistrate And Deputy Collector, Durg, Tahsil & Distt. Durg, (Chhattisgarh)
5. State Of Madhya Pradesh, Through: Principal Secretary, General Administration Department, Govt. Of Madhya Pradesh Secretariat, Vallabh Bhawan, Bhopal 462004 (Madhya Pradesh)

---- Respondents

For Petitioner	: Shri V.G. Tamaskar, Advocate.
For Respondent No.3	: Dr. Saurabh Kumar Pande, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge.

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****06/04/2017**

1. Heard Learned Counsel for the Petitioner and Learned Counsel for Respondent No.3- the employer.
2. The fundamental question in this petition is as to whether the Petitioner who is employed in the Bhilai Steel Plant is liable to be removed from service on

account of a disputed question of fact as to whether he belongs to Halba Koshti or Koshti caste. It is pointed out that the High Power Caste Scrutiny Committee authorize to decide the issue, decided against the Petitioner and that decision has become final by virtue of the decision of this Court in Writ Petition (S) No.425 of 2010 which appears to have been affirmed by this Court in Writ Appeal No.88 of 2011. But the fact of the matter remains that in terms of the office memorandum dated 10.8.2010 (Annexure P/10) issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, it has been clarified that the decision of the Hon'ble Supreme Court in Civil Appeal No.2294 of 1986 (*State of Maharashtra Vs. Milind & Others*) is to the effect that appointment which had become final on or before 28.11.2000 shall not be affected till date. It is not disputed that the Petitioner was appointed on 13.8.1991 that is to say long before the cut off date in terms of the said judgment of the Hon'ble Supreme Court. Therefore, notwithstanding any finding by the committee that the Petitioner does not belong to a particular community, he is entitled to have the protection of the order of the Hon'ble Supreme Court as accepted by the Government of India through the issuance of office memorandum dated 10.8.2010 (Annexure P/10).

3. The aforesaid direction issued by the Government of India appears to have not been applied by the Learned Tribunal; may be for different reasons including that it was not properly brought to its notice on behalf of the Petitioner. Whatever that be, the impugned order of the Tribunal is vitiated on an error of law which is apparent from the records inasmuch as the Tribunal erred in law in not applying the office memorandum issued by the Government of India which is binding on the Bhilai Steel Plant.

4. Under such circumstances, the impugned order of the Tribunal is set aside and it is declared that the Petitioner is entitled to continue in service on the strength of office memorandum dated 10.8.2010 (Annexure P/10). Any decision of 3rd Respondent- employer contrary to what is stated above will stand quashed

hereby. Declaration that the Petitioner is entitled for the benefit of office memorandum dated 10.8.2010, and therefore, entitled to continue in service is hereby granted. However, he will not be eligible for any benefit referable to any situation of including him as a member of Scheduled Tribe.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE

Anu