

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 358 OF 2017

Nilima Pandurang Pakad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mrs. Asha N. Gore, Advocate for the Petitioner.

Shri P. S. Patil, Addl. G. P. for Respondent Nos. 1 and 2.

Shri V. C. Patil, Advocate h/f Shri U. B. Bondar, Advocate for
Respondent Nos. 3 and 4.

**CORAM : S. C. DHARMADHIKARI AND
MANGESH S. PATIL, JJ.**

DATE : 13TH JULY, 2017.

PER COURT :

. The petitioner is present in Court.

2. On 09th December, 2016 her claim as belonging to the
'Kokani' (Scheduled Tribe) has been rejected.

3. The Tribe certificate has therefore been cancelled.

4. After this petition was heard for some time on the earlier
occasion a suggestion was given to the petitioner's advocate by
the employer and the State. The petitioner's advocate has taken
instructions from the petitioner. In presence of the petitioner
and by consent of parties, we pass following order.

ORDER

A. The petitioner shall be taken to have voluntarily retired from the services of the Zilla Parishad Nashik, even before the impugned order was communicated to her.

B. The date of voluntary retirement shall be determined as 09th December, 2016. However, in the light of the fact that, this date is before 31st December, 2016, she shall be deemed to have continued in service till 31st December, 2016, on that date her services with respondent Nos. 3 and 4 shall come to an end.

C. Since this voluntary retirement as sought by the petitioner and which has been agreed and accepted prior to the intervention by this Court on 22nd June, 2017, we formally recorded it, because the petition was pending. This arrangement could have been recorded earlier. This agreement was throughout executed by free consent and without any pressure. This agreement is not tainted by any fraud, nor contrary to the public policy. It was always agreed between the parties that, if the petitioner is not able to obtain any relief from the Court of law, she would be taken as voluntarily retired employee.

D. The making of a formal application seeking voluntary retirement and the order passed thereon by the competent authority is only a formality, which is dispensed with.

E. Now respondent Nos. 3 and 4 shall pay the terminal dues of the petitioner and release the same as expeditiously as possible and preferably within a period of two (02) months from the date of receipt of copy of this order.

F. If the petitioner is entitled to draw any pension in terms applicable rules and as may be admissible, the same shall be paid to the petitioner.

G. The petitioner's entitlement for the above sums, shall be computed strictly in accordance with law and the rules.

H. We dispose of this petition on the basis that the petitioner has taken voluntary retirement, and therefore, the challenge to the order of the Scrutiny Committee and the proceedings before it are rendered infructuous.

I. This order is passed in the peculiar facts and circumstances of this case and shall not enure to the benefit of any other employee on the establishment of the State or the Zilla Parishad. The mandate of law will have to be then followed strictly.

[MANGESH S. PATIL, J.]

[S.C.DHARMADHIKARI, J.]