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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 4502 OF 2015.

The State of Maharashtra
Through : The SecretaryPetitioner.

Vs
Dinesh Ramaji ArmorikarRespondent.

Mr. N.P. Deshpande, A.G.P. for the Petitioner.
Mr. Sagar A. Mane for Respondent No.1.

CORAM : R.M. BORDE & A.S.GADKARI, JJ.
DATE : 24th February, 2017.

P.C.

1) The State is objecting to the decision rendered by the Maharashtra Administrative Tribunal in Original Application No. 780 of 2013 decided on 18th September, 2014. The original applicant was inducted in employment as a Steno-Typist on 1.4.1997 as against the seat reserved for Schedule Tribe (S.T.) category.

2) It is an admitted position that the caste certificate issued to the applicant has been invalidated by the Caste

Scrutiny Committee in the year 2005. On the basis of the order passed by the Caste Scrutiny Committee directing invalidation of the caste certificate issued to the original applicant employer proceeded to direct termination of the services of the original applicant, the respondent herein.

3) The respondent raised objection to the decision taken by the petitioner-State terminating his services on account of his failure to submit caste validation certificate. The Maharashtra Administrative Tribunal, at Mumbai placing reliance on the judgment in the matter of **State of Maharashtra Vs. Milind Katware** reported in **2001 (1) Mh.LJ 1** as well as in the matter of **Union of India Vs. Dattatray Namdeo Mendhekar & Ors** reported in **(2008) 4 SCC 612** proceeded to direct reinstatement of the applicant, without any back wages. It is not the contention of the State that original applicant in order to get employment has placed reliance on any fabricated or forged record. Merely because the caste certificate has been invalidated by the Caste Scrutiny Committee on his failure to produce cogent evidence the employer shall not be entitled to terminate employee from

employment. Since the respondent has been inducted in employment prior to 2001 and was continued until the date of issuance of order of promotion in the year 2013 the case of the respondent is covered by the judgment of the Full Bench in the matter of Arun Vishwanath Sonone Vs. State of Maharashtra & Ors reported in 2015 (1) Mh.LJ 457. The Full Bench of this Court while dealing with the issue in respect of its granting extension in the matter of employment has observed in paragraphs 65 and 66 of the judgment as quoted below :

“65. The factual position to which the law laid down is to be applied, is stated as under :

(a) Before coming into force of the said Act on 18-10-2001, the appointments and promotions were made against the post reserved for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Classes category (consolidatedly called as “the backward class category”) merely on the basis of the production of the Caste Certificate issued by the Competent Authorities with or without the condition of producing a caste validity certificate.

(b) The decision in Madhuri Patil's case was delivered by the Apex Court on 2-9-1994, and by issuing the Government Resolutions dated 15-6-1995 and 30-6-2004, all the appointments and promotions made up to 15-6-1995 against a post reserved for backward class category are protected and such appointments and promotions cannot be

cancelled.

(c) After coming to force of the said Act on 18-10-2001, no appointments and/or promotions could be made without production of a caste validity certificate under sub-section (2) of section 6 of the said Act, but it is a fact that some such appointments have been made.

(d) In terms of the decision in Milind's case, all the appointments that have become final up to 28-11-2000 stand protected subject to the conditions as under :

(i) that upon verification by the Scrutiny Committee, the Caste Certificate produced to secure an appointment, is not found to be false or fraudulent,

(ii) that the appointee shall not take any advantage in terms of promotion or otherwise after 28-11-2000 solely on the basis of his claim as a candidate belonging to any of the backward class categories in respect of which his claim is invalidated by the Scrutiny Committee, and

(iii) that it shall be permissible for the Competent Authority to withdraw the benefits or promotions obtained after 28-11-2000 as a candidate belonging to backward class category for which the claim has been rejected.

66. In view of the law, which we have laid down, the relief of protection of service after invalidation of caste claim can be granted by the High Court on the basis of the judgment of the Hon'ble Supreme Court in the cases of Kavita Solunke v. State of Maharashtra and

others, reported in 2012(8) SCC 430, and Shalini v. New English High School Association and others, reported in (2013)16 SCC 526. The manner and the extent to which such protection is to be made available, is laid down as under :

(a) The appointments or promotions made up to 15-6-1995 in public employment on the basis of the Caste Certificates against a post reserved for any of the backward class categories, stand protected in terms of the Government Resolutions dated 15-6-1995 and 30-6-2004 and shall not be disturbed, and the appointments that have become final between 15-6-1995 and 28-11-2000 shall remain unaffected in view of the decision of the Apex Court in Milind's case.

(b) The grant of protection in terms of the Government Resolutions dated 15-6-1995 and 30-6-2004 and the decision in Milind's case, shall be subject to the following conditions :

(i) that upon verification by the Scrutiny Committee, the Caste Certificate produced to secure an appointment, is not found to be false or fraudulent,

(ii) that the appointee shall not take any advantage in terms of the promotion or otherwise after 28-11-2000 solely on the basis of his claim as a candidate belonging to any of the backward class categories, in respect of which his claim is invalidated by the Scrutiny Committee, and

(iii) that it shall be permissible for the Competent Authority to withdraw the benefits or promotions obtained after 28-11-2000 as a candidate belonging to backward class category for which the claim has been rejected.

(c) Any appointments that have become final against a post reserved for any of the categories of backward class on the basis of the production of Caste Certificate without incorporating a specific condition in the order of appointment that it is subject to production of caste validity certificate after 28-11-2000 and before coming into force of the said Act on 18-10-2001 shall also remain protected subject to the conditions mentioned in clause (b) of para 64.

(d) After coming into force of the said Act on 18-10-2001, no benefit or appointment can be obtained or secured in any public employment against a post reserved for any of the backward class categories merely on the basis of the production of a caste certificate and without producing a caste validity certificate from the Scrutiny Committee. Such appointments are not protected and shall be liable to be cancelled immediately upon rejection of the caste claim by the Scrutiny Committee.”

In view of the above, the view taken by the Maharashtra Administrative Tribunal cannot be termed as erroneous. The petition is devoid of substance. Hence rejected. No order as to costs.

(A.S. GADKARI,J)

(R.M. BORDE, J.)