

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1314 OF 2016

Dr.Parshuram, V. Nagadarwad. ..Petitioner.
vs.
The Jt. Director, Health Services and anr. ..Respondents.

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Mr. Bhushan A. Bandiwadekar for the Petitioner.
Mr. C.P. Yadav, AGP. for the State.

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CORAM : R.M. BORDE AND
A.S. GADKARI, JJ.
DATE : 27th February, 2017

PC:

1. The petitioner is objecting to the order passed by the Maharashtra Administrative Tribunal in Original Application No.652 of 2011 disposing of the original application submitted by the petitioner directing the respondents to regularize the services of the applicant in original application from 1.10.2007. The petitioner contents that he belongs to scheduled tribe category and was offered employment as a Medical Officer as against the seat reserved for scheduled tribe category in the

year 2000. The petitioner did not possess caste validity certificate belonging to scheduled tribe and as such he was not permitted to join the service. In the year 2001, the order of appointment came to be withdrawn since the petitioner could not produce the validity certificate. The petitioner secured the validity certificate in the year 2006 and requested the respondents to appoint him as Medical Officer. The petitioner was functioning as Medical Officer on ad-hoc basis since 2007.

2. On perusal of the order passed by this Court in W.P. No.2535 of 1993 decided on 15.9.2005 it transpires that the caste certificate was secured by the petitioner prior to 1992. The caste certificate was referred for scrutiny to the duly constituted committee however, the committee directed invalidation of the caste certificate issued to the petitioner. The petitioner approached the High Court challenging the order of invalidation of the caste certificate by presenting Writ Petition No.2535 of 1993. While entertaining the petition, the Division Bench of this Court granted interim relief in terms of prayer clause (c) and thereby directed the respondents to consider

the claim of the petitioner from scheduled tribe category for giving admission provisionally to the medical course for the year 1993-94 pending hearing and final disposal of the petition. It does appear that the petitioner was admitted to the medical course and during the pendency of the petition he completed the degree course. The writ petition was ultimately allowed by the Division Bench of this court at Aurangabad on 15.9.2005 and the matter came to be remitted to the Scrutiny Committee for reconsideration of the proposal submitted by the petitioner for validation of the caste certificate.

3. After passing the MBBS Degree course, the petitioner participated in the selection process of Medical Officer and was selected for the post in the year 2000 as against the vacancy prescribed for scheduled tribe category. In fact, he did not possess scheduled tribe certificate and the certificate which was issued to him earlier was already invalidated by the Scrutiny Committee in the year 1992. The invalidation order passed by the Scrutiny Committee was set aside by the Division Bench of this court in the year 2005. The

petitioner did not bring to the notice of the Division Bench of this court when the matter was taken up for final disposal in 2005 that he had completed the studies and secured employment as Medical Officer as against the vacancy prescribed for scheduled tribe candidate. In fact, the caste certificate issued to the petitioner was already invalidated as such, he could not have secured the employment as member belonging to Scheduled Tribe category. However, it does appear that after securing validation certificate, petitioner approached the Government and was appointed as Medical Officer in the year 2006. The petitioner was working on ad hoc basis from 2007 and as such, has been justifiably directed by the MAT to regularize his services from such date. In any eventuality, the petitioner cannot claim regularization of service since 2000. The petitioner did not possess tribe certificate on the date of his appointment and as such he could not have secured employment as against the reserved seat. In our opinion, the MAT is justified in refusing to grant relief in favour of the petitioner in respect of regularization of employment

since 2005. No interference is called for in the petition. Petition is devoid of any substance and as such, stands dismissed.

(A.S.GADKARI, J.)

(R.M. BORDE, J.)