

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE

WRIT PETITION NO. 4206 OF 2001

|                                  |     |              |
|----------------------------------|-----|--------------|
| Shri Sunil Shankar Jakkal.       | ... | Petitioner.  |
| V/s.                             |     |              |
| State of Maharashtra and others. | ... | Respondents. |

Mr.S.V.Sadavarte for the petitioner.

Mrs.R.A.Salunkhe, AGP for respondent Nos.1 to 4.

CORAM : A.S.OKA & SANDEEP K. SHINDE, JJ.

DATE : 13<sup>th</sup> December 2018.

**ORAL JUDGMENT:** (Per A.S.Oka, J.)

The learned counsel appearing for the petitioner has tendered an affidavit of the petitioner dated 13<sup>th</sup> December 2018. The affidavit is taken on record and marked as “A-1” for identification.

2. In this petition, under Article 226 of the Constitution of India, the challenge is to the order dated 28<sup>th</sup> December 1994 passed by the Committee for Scrutiny and Verification of Tribe Claims, Pune (for short “Caste Scrutiny Committee”) by which the tribe claim of the petitioner that he belongs to Mannerwarlu Scheduled Tribe was rejected. On 4<sup>th</sup> December 1984, the petitioner joined the employment of the fourth respondent as a Binder. On the basis of the order of the Caste Scrutiny

Committee, the fourth respondent issued a notice to the petitioner to show cause as to why his employment should not be terminated. On 24<sup>th</sup> September 2001, rule was issued by this Court and interim relief was granted whereby execution of the order of the Caste Scrutiny Committee was stayed and the petitioner was allowed to continue in service. The petitioner attained age of superannuation on 30<sup>th</sup> April 2012. Thus, the petitioner's employment continued till 30<sup>th</sup> April 2012.

3. In the petitioner's affidavit tendered today, he has stated that the petitioner and his family members named therein will not claim any benefit on the basis of the caste certificate which was invalidated by the Caste Scrutiny Committee under the impugned order. It is stated in the affidavit that he is giving an undertaking for himself and other family members mentioned in paragraph-3. He has stated that only 50% of the pension is released to the petitioner. Thus, as the petitioner has given up his caste claim that he belongs to scheduled tribe, now the question of entertaining the impugned challenge does not survive. The question of protecting the petitioner's employment will not arise as he has reached the age of superannuation.

4. Accordingly, we pass the following order:

- (i) The statements made in the affidavit marked as "A-1" are accepted. We grant time of one month to the petitioner to produce similar affidavits of other family members whose names appear in paragraph-3 of the

said affidavit. Copies of the affidavits of the said family members shall be supplied to the learned AGP. If affidavits are not filed by all the family members within the stipulated time, the Registrar (Judicial-I) shall place the petition before appropriate Bench for direction;

- (ii) We make it clear that if the petitioner has completed pensionable service under the interim orders of this Court and that he is otherwise not disentitled to pensionary or other retirement benefits, the same shall not be denied to the petitioner only on the basis of the impugned order dated 28<sup>th</sup> December 1994 passed by the Caste Scrutiny Committee;
- (iii) Rule is accordingly discharged with no order as to costs.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)