

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2339 OF 2018

Ajinkya S/o. Rajiv Khadatkar
Vs.

.. Petitioner

Managing Director,
Maharashtra State Electricity Distribution
Co. Ltd. "Prakashgad" & Ors.

.. Respondents

Mr. D.P. Bhongade, Advocate for petitioner.

Mrs. A.R.S. Baxi, Advocate for respondent Nos.1 to 3..

**CORAM : B.R. GAVAI &
N.J. JAMADAR, JJ.**

DATE : 17TH JANUARY 2019

JUDGMENT (PER B.R. GAVAI) :

1 Rule. Rule is made returnable forthwith. By consent, heard finally.

2 The petitioner has approached this Court challenging the impugned communications dated and 29th March 2017 and 18th April 2017 whereby the petitioner was directed by respondent No.2 to submit caste validity certificate failing which his services were liable to be terminated.

3 The learned counsel for the petitioner submits that the petitioner's father was working in respondent No.2 on the post of Asst. Lineman. On 20th September 2003, petitioner's father died due to ill health. On the death of the petitioner's father, the mother of the petitioner came to be appointed in his place on temporary basis. However, she subsequently relinquished her appointment in the name of the petitioner with a request to appoint the

petitioner on compassionate ground. Thereafter, the petitioner applied for the employment on compassionate ground. Respondent No.2, by order dated 19th July 2014, appointed the petitioner on temporary basis on the post of Jr. Office Assistant. By an order dated 26th February 2016, the petitioner was declared as permanent employee.

4 By the impugned communication dated 29th March 2017, the petitioner has been informed that since his appointment was made under scheduled tribe category, he is required to submit the caste validity certificate and, as such, on failure to submit the caste validity certificate, his appointment will liable to be cancelled. In this context, the learned counsel for the petitioner relied upon the judgment of a Division Bench in *Pramod Shivaji Shinde Vs. State of Maharashtra & Ors.*¹.

5 The learned counsel for respondent Nos.1 to 3 supported the stand taken by respondent No.2. However, no material is placed before us to indicate that the appointment of the petitioner was on a post reserved for the scheduled tribe category and, therefore, respondent No.2 was not justified in demanding a caste validity certificate.

6 On perusal of the material on record and the annexed documents, it is revealed that the appointment of the petitioner was purely on compassionate ground and not under any reserved category. As noted

1 2017 (3) Mh. L.J. 925

above, the petitioner's father was working with respondent No.2 who died in harness. Petitioner's mother relinquished her rights and, thus, the petitioner came to be appointed on compassionate ground by the communication dated 26th February 2016. In view of the settled position of law that unless the Rules and the Policy of the State specifically carve out or provide a reservation policy applicable to compassionate appointments, there cannot be a presumption that a compassionate appointment would be subject to the validation of a caste or a tribe claim only because the candidate belongs to a scheduled caste or tribe.

7 In view of above, the petition is allowed. The impugned communications dated 29th March 2012 and 18th April 2017 are quashed and set aside. Since in the impugned communications itself, it is mentioned that the petitioner is appointed on compassionate ground, the petitioner is not required to submit his caste validity certificate.

8 Rule is made absolute in the aforesaid terms with no order as to costs.

[N.J. JAMADAR, J.]

[B.R. GAVAI, J.]