

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.3027 of 2019

Shri Prakash Rushiji Binekar
 vs.

Chief Engineer (Technical), Maharashtra State Power Generation Company Ltd.

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*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

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Court's or Judge's Orders

Shri S.D. Khati, Advocate for the Petitioner.

CORAM : R.K. DESHPANDE & S.M. MODAK, JJ.

DATE : 15th APRIL, 2019.

The petitioner was appointed in the service of the respondent - Company on the post of Junior Engineer, which was reserved for Scheduled Tribe category. The claim of the petitioner was invalidated by the Scrutiny Committee on 05/08/2002. This decision was challenged in Writ Petition No.4011/2002 before this Court. The writ petition was dismissed on 17/07/2017. As a result, the invalidation order passed by the Scrutiny Committee attains finality.

02] The petitioner was appointed as Chargeman Grade-II in the services of the respondent on 18/10/1984 and has rendered almost 33 years of continuous service. The petitioner was terminated from service on 29/12/2017 on the ground of invalidation of his caste claim by the Scrutiny Committee. Consequently, the petitioner has lost the entire service rendered and all post retiral benefits which he could have got.

03] The petitioner claims that by virtue of the Government Resolution, dated 15/06/1995, a Special Backward Class category is created in which the cast of the petitioner, which is held to be "Koshti" is included and 2% reservation in the employment is provided for such category. The petitioner claims reinstatement in service by adjusting him in 2% vacancies created as per the Government Resolution, dated 15/06/1995, which is binding upon the respondent-Company, being an instrumentality of the State Government. Reliance is placed upon the decision of the Division Bench of this Court in the case of Vijay Kishanrao Kurundkar & another vs. State of Maharashtra & others, reported in 2018(5) Mh.L.J. 66.

04] In the decision of the Full Bench of this Court delivered in the case of Arun Vishwanath Sonone vs. State of Maharashtra and Ors., reported in 2015(1) Mh.L.J. 457., this Court relied upon the Government Resolution, dated 15/06/1995 to hold that the protection can be extended to a Special Backward Class category created by the State Government Resolution. This decision is reversed by the Apex Court in the case of Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balaram Bahira and others, reported in (2017) 8 SCC 670. As a result of this, the natural consequence is of forfeiture of past service. It is not now permissible for us to restore such service by reinstating the petitioner. Rendering long service of 33 years is of no consequence.

05] After going through the decision of the Division Bench of this Court in the case of Vijay Kurundkar, cited supra, we find that reliance is placed upon the earlier decision of the Apex Court in the case of Punjab National Bank vs. Vilas Govindrao Bokade, reported in (2008) 14 SCC 545, to grant protection as per the Government Resolution, dated 15/06/1995. In the decision of Full Bench of this Court in the case of Arun Sonone, cited supra, which has been reversed by the Apex Court, the previous decision of the Apex Court in the case of Punjab National Bank was relied upon and the protection under the Government Resolution, dated 15/06/1995 was granted. The larger bench of the Apex Court having reversed the decision of Full Bench of this Court, in our view, no deviation can be made and we are bound by the decision of the Apex Court in the case of Food Corporation of India. In view of the decision of this Court in Writ Petition No.4011/2002 decided on 17/07/2017, the present petition is barred by the principle of *res judicata*. The writ petition is, therefore, dismissed.

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