

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7385 OF 2021

Farzana Sultana Mohd. Anwar Khan .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Mr. Nitin T. Tribhuwan, Advocate for the Petitioner.

Mr. S. P. Tiwari, AGP for Respondent No. 1.

Mrs. Anjali Bajpai-Dube, Advocate for Respondent No. 2.

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 02nd September, 2021.

PER COURT:-

. The husband of the petitioner is placed on supernumerary post on 24.01.2020 on the ground that husband of the petitioner was appointed from Scheduled Tribe category and his tribe claim was invalidated. The husband of the petitioner subsequently died on 17.05.2020. The petitioner is assailing the order placing the husband of the petitioner on supernumerary post.

2. We have heard Mr. Tribhuwan, learned counsel for the petitioner and Mrs. Dube, learned counsel for respondent No. 2.

3. It appears that, after the tribe claim of the petitioner was

invalidated, the husband of the petitioner was terminated from service. The husband of the petitioner filed Writ Petition No. 1159 of 2003 challenging the judgment of the committee and also terminating his services. This Court under its judgment and order dated 16.12.2003 upheld the judgment of the committee, however, set aside the termination order directing reinstatement in service with continuity, but without back wages.

4. The protection was granted by this Court under judgment and order dated 16.12.2003 in Writ Petition No. 1159 of 2003.

5. We have in our judgment and order dated 04.05.2021 in Writ Petition No. 903 of 2020 with connected writ petitions observed that if the tribe claim of an employee is invalidated and subsequently the High Court confirms the invalidation and granted protection in service and the said judgment has become final, the employer cannot thereafter take adverse action against the employee or place the employee on supernumerary post on the ground that the tribe claim is invalidated.

6. In the light of the above, the order placing the husband of the petitioner on supernumerary post is quashed and set aside.

7. Needless to state that, the legal representative of the deceased employee namely Mohd. Anwar Khan would be entitled for all the

consequential benefits as the order placing him on supernumerary post is set aside.

8. Writ petition accordingly is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.