

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

961 WRIT PETITION NO.7702 OF 2021

Shrihari s/o Shripati Kalgude,
Age-51 years, Occu.: Driver,
M.S.R.T.C. Kallam Sub-Division,
R/o Dhoki, Tq. & Dist.: Osmanabad

.. Petitioner

Versus

1. The State of Maharashtra,
Through: The Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32

2. The Maharashtra State Road Transport
Corporation, Mumbai,
(Through its Divisional Controller,
Osmanabad)

.. Respondents

...

Advocate for Petitioner: Mr. Ghute Patil Kishor J.
AGP for Respondent No.1: Mrs. M. A. Deshpande
Advocate for Respondent No.2: Mr. A. B. Dhongade

...

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

DATE: 16th JULY, 2021

ORAL JUDGMENT (Per S. V. Gangapurwala, J.):

1. Rule. Rule returnable forthwith. With the consent of learned Counsel for respective parties matter is taken up for final hearing.

2. The petitioner is granted protection in service though his claim is invalidated in the earlier writ petition filed by the petitioner.

Now, respondent no. 2 has placed the petitioner on supernumerary post.

3. The learned A.G.P. accepts notice for respondent no. 1. Mr. Dhongade, learned counsel accepts notice for respondent no. 2.

4. The issue is no longer *res-integra* in view of the judgment of this Court in Writ Petition No. 903 of 2020 with connected writ petitions dated 04.05.2021. It has been held that, if, the protection in service is granted by this Court upon invalidation of the caste claim, then the employer would not have authority to place the employee on supernumerary post. The judgment of this Court granting protection has attained finality.

5. For the reasons recorded in the judgment dated 04.05.2021 passed in Writ Petition No. 903 of 2020 with connected writ petitions, the present writ petition is also allowed. The impugned order placing the petitioner on supernumerary post is quashed and set aside.

6. Rule is accordingly made absolute.

7. Writ Petition accordingly stands disposed of. No costs.