

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9965 OF 2022

MANISHA EKNATH TORADMAL ALIAS MANISHA RAMESH VIBHUTE
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

Mr.S.S.Phatale, Advocate for the petitioner.
Mr.S.G.Karlekar, AGP for State.

(CORAM : RAVINDRA V. GHUGE AND
ARUN R. PEDNEKER, JJ.)

DATE : OCTOBER 06, 2022

PER COURT :

1. The petitioner has put forth prayer clause 'A' and 'B' as under :-

"A. Issue writ of certiorari or order in the like nature thereby quash and set aside impugned order passed by respondent No.3 dated 28.06.2022, thereby declared service post of petitioner as supernumerary post' (Adhisanakhy Pad) for 11 months.

B. Issue writ of mandamus or any other appropriate writ or order in the like nature thereby directing the respondent No.2 Scrutiny Committee to expeditiously decide tribe claim of petitioner within stipulated period."

2. The learned AGP submits on instructions from the Committee that the claim of the petitioner of belonging to the "Koli Mahadev" ST is

pending adjudication. Due to heavy workload and time bound matters, the Committee was unable to decide the claim within the limit that was ordered by this Court vide order dated 23.08.2021 passed in WP No.9208/2021. It is, however, submitted that the case of the petitioner would be decided, in any case, on or before 31.03.2023.

3. It is undisputed that though the petitioner has been placed on a supernumerary post vide order dated 28.06.2022 for a period of 11 months, neither her position nor her salary has been affected. Her service is protected till 27.05.202, by the impugned order. If the petitioner's claim is decided by 31.03.2023, she would stand to gain all service benefits payable to her upon validation of her claim. It cannot be lost sight of the fact that the petitioner has been placed on a supernumerary post on the orders of the Hon'ble Supreme Court in the case of **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others [(2017) 8 SCC 670]**.

4. In view of the above, this petition is disposed off with the following directions :-

[a] The petitioner would continue to earn the same salary which she

was earning prior to 28.06.2022, until 30.04.2023.

[b] The claim of the petitioner would be decided by the Committee on or before 31.03.2023 and shall not seek extension of time.

[c] The petitioner would render whole-hearted co-operation to the Committee for an expeditious decision in her case and would not seek adjournments on unreasonable grounds, lest, the Committee would be at liberty to progress to the next stage of the proceedings.

[d] If the Committee delivers an adverse order, the same would not come into effect for a period of 30 days from the date of passing of the order provided the order is communicated to the petitioner within 10 days of its pronouncement, or till 30.04.2023, whichever is earlier.

[e] The Committee is at liberty to grant a particular date for pronouncement of the order and on that date, the petitioner would remain present and note the order being delivered by the Committee.

[f] Needless to state, if the Committee validates the claim of the petitioner, she would be entitled for all service benefits on the basis of her claim being "Koli Mahadev" ST.

[g] The petitioner would be bound by the Law laid down by the Hon'ble Supreme Court vide judgment dated 06.07.2017 in **Chairman and Managing Director, Food Corporation of India and others** (supra).

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)