

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3434 OF 2017

Akshay Datta Chatur
V/S
Commissioner,
Kalyan Dombivali Municipal Corporation & Ors.Petitioner
....Respondents

...
WITH
WRIT PETITION NO.8276 OF 2017

Vishal Bhika Khade
V/S
Commissioner,
Kalyan Dombivali Municipal Corporation & Ors.Petitioner
....Respondents

...

Mr. Sandip R. Khurkute for the Petitioner in both WPs.
Mr. A.S. Rao for Respondent Nos.1 to 3-State in both WPs.

...

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATE : 03 APRIL 2023.

P.C.:

1 The Petitioners herein were appointed as a Peon by the Respondent-Corporation on or about 3 July 2014 from Scheduled Tribe category. They were terminated from service on 20 December 2016 on the ground that the Petitioners failed to produce the validity certificate. It appears that the claim of the Petitioners for issuance of validity certificate was referred to the Committee. The Committee validated the caste claim of the Petitioners. It

appears that the Petitioners were late in submitting the Application for validation of their caste certificate.

2 Nonetheless fact remains that the Scrutiny Committee has validated the caste claim of the present Petitioners. The caste claim of the Petitioner Akshay is validated by the Committee under its judgment and order dated 5 May 2022 and the claim of the Petitioner Vishal is validated under order dated 22 November 2017 and the validity certificate is issued to him on 22 November 2017.

3 The caste claim of the Petitioners as belonging to Koli Mahadev Scheduled Tribe is validated. It is proved that the Petitioners belong to Scheduled Tribe community. The Petitioners were appointed on Class IV post from Scheduled Tribe category. It appears that delay has been caused in issuance of the validity certificates.

4 We also heard the learned Counsel for the Respondent-Corporation.

5 The learned Counsel for the Respondent-Corporation submits that the Petitioners were duty-bound to produce the validity certificates within six months of the date of their appointment as per the relevant Government Resolution, upon failure to do so the Respondent-Corporation rightly passed the impugned order.

6 As now the Petitioners possess the validity certificates though having obtained belatedly it is true that they belonged to Scheduled Tribe category. We are inclined to set aside the impugned order of termination and direct the Respondent-Corporation to reinstate the Petitioners however, as there was delay on the part of the Petitioners we are not inclined to grant back-wages to them.

7 In the result, we pass the following order:

ORDER

- i) The impugned orders of termination are quashed and set aside. The Respondent-Corporation shall reinstate the Petitioners on their original post. The Petitioners will be entitled for continuity in service however, shall not be entitled to back-wages.
- ii) Rule accordingly made absolute in above terms.
- iii) The Writ Petitions are disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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Signed by
SUDARSHAN
RAJALINGAM
KATKAM
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