

jvs

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

SALUNKE
J V

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WRIT PETITION NO. 6129 OF 2021

Ramesh S/o. Vasantrao Kumbhare	}	Petitioner
Versus		
The General Manager, National Bank	}	
for Agriculture & Rural Development	}	Respondents

**WITH
WRIT PETITION NO. 6130 OF 2021**

Rakesh s/o. Wamanrao Kumbhare	}	Petitioner
Versus		
The General Manager, National Bank	}	
for Agriculture & Rural Development	}	Respondents

**WITH
WRIT PETITION NO. 6131 OF 2021**

Kashinath s/o. Namdeorao Kadwe	}	Petitioner
Versus		
The General Manager, National Bank	}	
for Agriculture & Rural Development	}	Respondents

Ms. Anita Gavkar i/b. Mr. Sushant C.
Yeramwar for the petitioners in all petitions.

Mr. S. P. Bharti for the respondent.

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

DATE: MARCH 6, 2023

P.C.:

1. The petitioners were employed as clerks by the respondent from Scheduled Tribe category. Subsequently, the claim of the petitioners as belonging to Scheduled Tribe category was invalidated. The petitioners filed writ petitions before this Court

at Nagpur Bench. The Division Bench of this Court at Nagpur, while partly allowing the writ petitions, passed the following order: -

“3. In that view of the matter, for the reasons recorded by us while allowing Writ Petition No. 900 of 2012 and other petitions on 9.10.2012, we allow this petition in the following terms:

(i) The petition, in so far as the challenge to order passed by the Scrutiny Committee is concerned, stands dismissed.

(ii) the respondent-employer is directed not to terminate the services of the petitioner on the ground of invalidation of his tribe claim. However, it is made clear that the protection which is granted to the petitioner is only in respect of his initial appointment. It is also made clear that if any promotions are granted to the petitioner on the basis of his claim as belonging to the Scheduled Tribe, the Authorities would be at liberty to withdraw the benefits and revert the petitioner to such of the post to which he would be legitimately entitled i.e. his entry into service is to be treated from open category.

(iii) The petitioner to file an undertaking within a period of three weeks from today, that hereinafter neither the petitioner nor his progeny would be entitled to claim any benefits on the basis of belonging to the Scheduled Tribe.”

2. Paragraph 3 is clear. The Court only protected the initial appointment of the petitioners; however, it also observed that if any promotions are granted to the petitioners on the basis of their claim as belonging to the Scheduled Tribe, the authorities would be at liberty to withdraw the benefits and revert the petitioners to such of the post to which they would be legitimately entitled, i.e., their entry into service is to be treated from open category.

3. The respondent, pursuant to the said judgment, reverted the petitioners and subsequently the petitioners are promoted from general category.

4. The only contention raised by the learned advocate for the petitioners is that if the petitioners would have been reverted in the year 2012-2013, then, the petitioners would have passed departmental examination from general category.

5. The same cannot be subject matter of consideration in the present writ petitions. The respondents acted as per the judgment of this Court at Nagpur Bench, in which, the subject matter of challenge was the invalidation of the caste claims of the petitioners. Only because the said judgment was followed belatedly would be no ground to interfere in the present writ petitions.

6. In light of the above, the writ petitions stand dismissed. Rule is discharged. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)