

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2072 OF 2021

Prakash s/o Shankarrao Raut,
aged about 54 years, presently
working as Sub Divisional Officer,
Washim resident of SDO's Headquarters,
Washim, District Washim ... Petitioner

-vs-

1. State of Maharashtra,
Ministry of Revenue and Forest,
Mantralaya, Mumbai 4000032,
through its Additional Chief Secretary
2. Divisional Commissioner, Amravati ... Respondents

Shri Narayan C. Phadnis, Advocate for petitioner.
Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.
DATE : February 02, 2023

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The petitioner claims to belong to Gond Govari (Scheduled Tribe). He was appointed as Tahsildar by an order dated 06/01/1998. During the course of service, the petitioner's tribe-claim was invalidated by the Scrutiny Committee on 04/07/2002. The order of invalidation came to be confirmed by this Court in Writ Petition No.2217/2007. Since the petitioner sought protection of his services,

he filed Writ Petition No.5871/2012 and by the order dated 06/12/2012 his services were protected. From 22/02/2019 the petitioner was holding the post of Sub Divisional Officer, Washim. The petitioner in the meanwhile sought to voluntary retire from service and hence moved an application in that regard. By the order dated 02/03/2021 the State Government denied permission to the petitioner to voluntary retire from service. This was for the reason that he had been placed on a supernumerary post in the light of Government Resolution dated 21/12/2019 by the order dated 25/02/2020. In view of that Government Resolution as well as subsequent Government Resolution dated 27/11/2020 such stand was taken by the State Government.

2. It is submitted by the learned counsel for the petitioner that by the common judgment dated 16/12/2022 in Writ Petition No.1485/2020 (*Bharatee Balaji Rapatwar vs. The State of Maharashtra and ors. with connected writ petitions*) decided at Aurangabad Bench, it has been held that in view of Government Resolution dated 14/12/2022 the effect of the earlier Government Resolution dated 22/12/2019 would be neutralized. It is thus submitted that since the request of the petitioner for seeking voluntary retirement was subsequently refused on the ground that the report of Study Group was

awaited in the light of Government Resolution dated 21/12/2019, the matter can be re-considered by the State Government in view of the subsequent events.

3. The learned Assistant Government Pleader supported the impugned order and submitted that the request for voluntary retirement has been rightly refused by the State Government. It is however not disputed that by issuance of Government Resolution dated 14/12/2022 the effect of earlier Government Resolutions dated 21/12/2019 as well as 27/11/2020 has been neutralized. On perusal of the impugned order dated 02/03/2021, it is seen that the same has been issued in the light of the fact that the petitioner was placed on a supernumerary post as per Government Resolution dated 21/10/2019. As the said Government Resolutions had been superseded and revised by Government Resolution dated 24/12/2022 it would be necessary to consider the effect of this Government Resolution on the request made by the petitioner for grant of permission to voluntary retire from service. On this count we find that the State Government ought to be directed to re-consider the petitioner's request for voluntary retirement.

4. Hence in view of issuance of Government Resolution dated 14/12/2022, the order dated 02/03/2021 passed by the State

Government is set aside. The respondent No.1 is directed to reconsider the petitioner's request for seeking voluntary retirement in accordance with law. The necessary decision be taken within a period of eight weeks from receipt of copy of this judgment. The decision taken be communicated to the petitioner. All points raised in the writ petition are kept open.

With these directions, the writ petition is partly allowed and disposed of with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)

Asmita