

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

CIVIL APPLICATION (W) NO. 2445 OF 2022

IN WRIT PETITION NO. 5095 OF 2021

(Dr. Parasram Kisan Nandankar Vs. Vice-Chairman, Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Shri Anil Mardikar, Senior Advocate with Shri V.R. Deshpande, Advocate for the petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for respondent Nos. 1, 2 and 7 to 9.

Shri N.S. Deshpande, Deputy Solicitor General of India for the applicants/ respondent Nos. 10 and 11.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : FEBRUARY 3, 2023

This application has been preferred by respondent Nos. 10 and 11 seeking modification of the order dated 28/9/2022. By the said order, the said respondents were directed to release the amounts due and payable to the petitioner during pendency of the present proceedings.

It is submitted by the learned Deputy Solicitor General of India for the applicants that insofar as the amount of Group Insurance is concerned, the said respondents do not dispute the petitioner's entitlement to the same. However, insofar as the amounts of Leave Encashment and Travelling Allowance are concerned, it is submitted that in view of the Office Memorandum dated 19/5/1993, these amounts are not liable to be paid in the event the Government servant is dismissed, removed or has resigned from service. Since the Scrutiny Committee has invalidated the tribe claim of the petitioner by observing that the certificate was obtained by playing fraud, it is urged that the consequence of dismissal from service would follow.

On a query being made to the learned Deputy Solicitor General of India as to whether any order of dismissal was issued to the petitioner, it is submitted that till date there is no such order of dismissal. Since the petitioner has already superannuated and no order of dismissal prior thereto was issued, it is clear that

the aforesaid Office Memorandum cannot be relied upon for denying such benefits.

In view of aforesaid, we do not find any reason to modify the order dated 28/9/2022. However, the petitioner shall furnish an undertaking stating therein that in case the order passed by the Scrutiny Committee is upheld and the petitioner is called upon to refund that amount he would repay the amount received by him with interest at such rate the Court may direct.

The Civil Application is rejected.

(URMILA JOSHI - PHALKE, J.)

(A. S. CHANDURKAR, J.)

SUMIT