



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3207 OF 2024
IN WRIT PETITION NO. 4022 OF 2023

Shantilal Bhakchand Barwal
Age : 62 years, Occu. Retired,
R/o. Plot No. 29, Survey No. 156/5,
Near Pinakeshwar Shoppee,
Jalgaon Raod, Harsool,
Aurangabad – 431008

... APPLICANT

VERSUS

1. The Bharat Sanchar Nigam Ltd.,
Through General Manager, Telecom,
Plot No. 11/12, Sanchar Sadan,
Town Centre, N-5, Cidco, Aurangabad
Through Sub-Divisional Engineer,
Prasad Anantrao Deshmukh,
Age : 51 years, Occup. Services
2. The Bharat Sanchar Nigam Ltd.,
Through Chairman and Managing Director,
Bharat Sanchar Bhavan, H.C. Mathur Lane,
New Delhi 110 001
3. The Chief General Manager,
Telecom Maharashtra Circle,
BSNL Bhavan, Juhu Road,
Santacruz West, Bombay – 54

... RESPONDENTS

Mr. Mohsin Khan, Advocate for the Petitioner
Mr. S. C. Arora, Advocate for Respondent Nos.1 to 3.

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

RESERVED ON: 12th APRIL, 2024
PRONOUNCED ON : 19th APRIL, 2024

ORDER (PER R. M. JOSHI, J.) :-

1. Applicant/original Respondent No.1 in Writ Petition No. 4022
of 2023 has preferred this Application for withdrawal of the amount

deposited by the non Applicant/original Petitioner pursuant to the order dated 12th April, 2023.

2. It is the case of the Applicant that he was employed with Bharat Sanchar Nigam Ltd. (BSNL) from 1982 to 2020. He opted for Voluntary Retirement Scheme 2019 and accordingly was relieved from service w.e.f. 31st January, 2020. The Employer, however, withheld the pensionary benefits of the Applicant for want of submission of caste validation certificate. Applicant, therefore moved Application bearing No. 193 of 2022 before Central Administrative Tribunal, Mumbai. By order dated 2nd January, 2023 the Tribunal has directed the Employer to pay pensionary benefits of the Applicant along with ex-gretea payment within a period of four weeks. The Employer filed Writ Petition bearing No. 4022 of 2023 challenging order passed by the Central Administrative Tribunal, Mumbai. This Court by order dated 12th April, 2023 had directed the Employer to deposit the amount of ex-gretea, gratuity and leave encasement, before 3rd May, 2023. A contempt proceeding is also initiated against the Employer. Applicant claims himself to be suffering from paralysis and bed ridden. He, therefore, seeks withdrawal of the amount deposited by the Respondent.

3. We have heard learned Advocates for both sides.

4. Learned Advocate for the non Applicant/Petitioner opposed withdrawal on the ground that the Applicant had availed benefit of

Scheduled Tribe category during the employment and unless he submits caste validity, he is not entitled for any benefit of employment. This submission is opposed by the learned Advocate for the Applicant contending that the entry of the Respondent is admittedly not under the Scheduled Tribe category nor any benefit has been received by the Applicant of the Scheduled Tribe category at any stage during employment. It is submitted that in any case since the Applicant had worked for long period with the Employer and he is entitled to receive the amount deposited in this Court.

5. There is no dispute about the fact that the Applicant had worked with BSNL from 1982 to 2020. *Prima facie* there is material on record to indicate that the entry of the Applicant was as a "Regular Mazdoor" in the employment. During the course of employment no objection was ever raised with regard to the Tribe claim of Applicant and his voluntary retirement is accepted without resistance. Pertinently, Applicant has placed on record medical papers indicating that he is suffering from serious illness. He is not paid any amount after his retirement in year 2020.

6. We, therefore, find it appropriate to allow the Applicant to withdraw 50% amount deposited by the Petitioner-BSNL in the Court along with interest accrued, if any, which shall be subject to decision of the Petition. Petitioner shall furnish usual affidavit undertaking to re-

deposit the withdrawn amount in this Court, within 6 weeks without interest, if the verdict in the Petition is adverse to him.

7. **This Application stands partly allowed in terms of the above directions.**

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp