



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 5486 OF 2024
IN WP/12063/2023**

BHASKAR PANDURANG JANMALE

VERSUS

**THE GENERAL MANAGER TELECOM BHARAT SANCHAR NIGAM
LTD AND OTHERS**

....

Mr. Mohsin Khan, Advocate for Applicant

Mr. R. B. Bagul, Advocate for Respondent No.2 in WP

Mr. S. C. Arora, Advocate for Petitioner

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 21.06.2024

PER COURT :-

1. The Applicant is the original Respondent No.1 in Writ Petition No.12063 of 2023. He has preferred this application for withdrawal of the amount deposited by the non-applicants/original Petitioners, pursuant to the order dated 12.04.2023 in Writ Petition No.4022 of 2023 and the order dated 03.10.2023.

2. It is the case of the Applicant that he was employed with Bharat Sanchar Nigam Ltd. (BSNL) from 1990 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. The Applicant, therefore, moved Application bearing No.182 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-gratia payment within a period of four weeks.

3. The Employer filed Writ Petition bearing No. 12063 of 2023, challenging the 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-gratia, gratuity and leave encashment, before 3rd May, 2023. A contempt proceeding is also initiated against the Employer. The Applicant claims that he is facing tremendous hardship and he suffering hyper tension. He, therefore, seeks withdrawal of the amount deposited by the Respondent.

4. We have heard learned Advocates for both sides.

5. The 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, he is entitled to receive the amount deposited in this Court.

6. There is no dispute about the fact that the Applicant had worked with BSNL from 1990 to 2020. Prima facie there is material on record to indicate that the entry of the Applicant was as a "Peon" in the employment. During the course of employment, no objection was ever raised with regard to the Tribe claim of the Applicant and his voluntary retirement is accepted without resistance. Pertinently, the 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.

7. 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. The Petitioner shall furnish a 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.

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

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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