



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

WRIT PETITION NO. 12806 OF 2024

MANGESH SHANKAR LIMJE

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY
AND OTHERS**

...

Shri Nagode Datta G., Advocate for the Petitioner.

Ms. P.J. Bharad, AGP for Respondent Nos.1 and 2/State.

...

CORAM : MANGESH S. PATIL

&

PRAFULLA S. KHUBALKAR, JJ.

DATE : 26th November, 2024

Per Court :-

Heard.

2. The petitioner, who is occupying the reserved seat, is awaiting a decision in respect of validation of tribe certificate.

3. Admittedly, the Scrutiny Committee has invalidated the tribe claim and as is being submitted by the learned advocate for the petitioner, the matter is subjudice before the Principal Seat in the form of challenge to the order of the Scrutiny Committee. Meaning thereby, that the petitioner is still awaiting

the certificate of validity.

4. In the meantime, having suffered disability during the course of employment, the petitioner has been seeking that he should be considered for promotion from the category of Physically Challenged Persons, pursuant to the Government Resolution dated 05.07.2021 (Exhibit C).

5. It appears that in the light of earlier round of litigation, pursuant to the directions of this Court, his case was considered even for promotion, but has been turned down by the communication dated 29.07.2024 on the ground that the recommendation did not expressly mention that he was to be considered from the category of Physically Challenged Persons for the purpose of promotion.

6. The learned advocate for the petitioner submits that this is the only reason he was not considered for promotion and the Divisional Commissioner ought to have expressly indicated in the peculiar circumstances that the petitioner was to be considered for promotion from the category reserved for Physically Challenged Persons.

7. Ex-facie, as is being pointed out by the learned AGP, the petitioner has been denied promotion only on the ground of his failure to obtain the certificate of validity.

8. When the petitioner is still to get the certificate of validity, he is not entitled to be considered for promotion. Even the Government Resolution, which the petitioner is relying upon, merely indicates that an employee who was appointed as general candidate (non handicapped) if suffers from such handicap during the course of employment, he shall be considered for promotion from that category reserved for Physically Challenged Persons. It would be misreading of the clause to understand it to mean that an employee, who is still to be confirmed in employment, having been appointed against the seat reserved for Scheduled Caste/ Scheduled Tribe who is still to obtain the certificate of validity, would also be eligible and entitled to be considered for promotion having suffered handicap during the course of employment.

9. Hypothetically it may so happen that such employees like the petitioner may obtain the employment against the reserved seat and subsequently, a decision to refuse the

certificate of validity reaches finality, will it still make him entitle to have promotion by continuing in employment, having suffered some handicap during the course of employment. To our mind, the persons like the petitioner are not entitled to derive benefits of clause 9 of the Government Resolution dated 05.07.2021.

10. There is no merit in the petition. The Writ Petition is dismissed.

kps

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)