



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13838 OF 2019

Nilima Pandurang Pakad

VERSUS

The State Of Maharashtra Through
Secretary Of Women And Child And Others

...

Mr. P. B. Patil, Advocate for the Petitioner

Ms. Neha Kamble, AGP for Respondent No. 1

Mr. V. C. Patil h/f Mr. U. B. Bondar, Advocate for
Respondent No. 2 to 4

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

DATE : MAY 08, 2024

PER COURT :

1. On 02nd May, 2024, we have passed the following
order:

1. We have perused the order passed by this court (CORAM: S. C. DHARMADHIKARI & MANGESH S. PATIL, JJ) dated 13.07.2017, in writ petition no. 358/2017 filed by the present Petitioner. In the said order, this Court merely permitted the Petitioner to leave employment on the basis of her application seeking voluntary retirement. It was held that she was deemed to be relieved on 31.12.2016. This was purely on the consent of the parties. Therefore, retiral benefits were permitted to be withdrawn. However, in the backdrop of the Petitioner's claim of belonging to 'Kokani' Scheduled Tribe Category, it was recorded in paragraph 4 (F) that "if the petitioner

is entitled to draw any pension in terms applicable rules and as may be admissible, the same shall be paid to the petitioner".

2. The law laid down by the Hon'ble Supreme Court in **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others, 2017 AIR SC 3271**, clearly indicates that if a person has secured employment on a post reserved for a backward category claiming to be belonging to the backward category and if such claim is invalidated, such candidate should be deprived of all service benefits.

3. We were about to start dictating the order of dismissal in this matter. However, the learned Advocate for the Petitioner sought a short accommodation to research as to whether there is any such judgment of the Hon'ble Supreme Court laying down the law that such a Petitioner would still be entitled for pensionary benefits. It is the contention of the Petitioner that she resorted to voluntary retirement since her claim was invalidated by the Committee and her employment would not have been sustained in such a situation.

4. Stand over to 08th May, 2024 **for dictating the order.**

2. The learned Advocate for the Petitioner sought a passover. After taking instructions, the Petitioner submits that there are several reported judgments

against her claim of pensionary benefits. She does not desire to prosecute this Petition.

3. In view of the above, this Writ Petition is disposed off as withdrawn, on instructions.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)