



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

WRIT PETITION NO. 727 OF 2024

Ku.Sanjivani Keshavrao Parate
(Sau.Sanjivani Anil Dudhe)
Aged about 46 years, Occ. Service
R/o Vishnukamal Nagar, Digras,
Dist. Yavatmal

.. Petitioner

Versus

- 1) The Chief Secretary,
General Administration Deptt,
Mantralya, Mumbai – 32
- 2) The President,
B.B.Arts, N.B.Commerce &
B.P.Science College, Digras,
Dist.Yavatmal
- 3) The Principal,
B.B.Arts, N.B.Commerce &
B.P.Science College, Digras,
Dist.Yavatmal

.. Respondents

Mr. S.R.Narnaware, Advocate for Petitioner.

Ms.T. H. Khan, A.G.P., for respondent No.1.

Mr. Abhishek A. Zade, Advocate for respondent Nos.2 and 3.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : May 07, 2024

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally, by
the consent of the learned counsel appearing for the parties.

(2) The petitioner being aggrieved by the impugned order dated 24/01/2024, passed by respondent No.3, whereby she was placed on the supernumerary post as per G.R. dated 21/12/2019 for a temporary period of 11 months / till the date of her superannuation, which is earlier in time.

(3) The petitioner was appointed as Lecturer on 29/11/1999 against the vacancy reserved for the Scheduled Tribe category. Her caste claim that she belongs to Halba, a Scheduled Tribe, was invalidated on 07/01/2002. Accordingly, her services were terminated on 12/02/2002. She challenged the said order of termination in Writ Petition No.954/2002 before this Court. A coordinate Bench of this Court vide Judgment and order dated 26/04/2005 quashed and set aside the order of termination passed and directed respondents No.3 & 4 to immediately reinstate the petitioner on the post of Lecturer in respondent No.4 College. Pursuant to the said Judgment and order, the petitioner was reinstated on 21/06/2005.

(4) Respondent No.3, vide letter dated 19/10/2023, called upon the petitioner to submit an explanation as to why her services should not be placed on a supernumerary post for 11 months in view of the Government Resolutions dated 21/12/2019 and 14/12/2022. The petitioner has submitted her explanation contending that in view of the Judgment and order passed in Writ Petition No.954/2002, the

conditions of Government Resolutions dated 21/12/2019 and 14/12/2022 do not apply to the petitioner. Despite the submission of an explanation, respondent No.3, on 24/01/2024, deliberately and intentionally placed her on a supernumerary post for 11 months, hence this petition.

(5) Learned counsel for the petitioner vehemently contended that this issue is already covered by the Judgment of the Division Bench of this Court delivered in Writ Petition No.903/2020 decided on 04/05/2021 in the case of **Raja Tukaram Shinde vs. State of Maharashtra** and other connected petitions. In the case at hand, the petitioner's services are protected by the Judgment and order passed in Writ Petition No.954/2002, decided on 26/04/2005. Therefore, he urged that passing the impugned order is not sustainable in the eyes of the law and is liable to be set aside.

(6) To buttress his submission, learned counsel has relied upon various judgments of this Court delivered in **Writ Petition No.903/2020** (Raja Shinde – cited supra), **Writ Petition No.462/2020** (Dakram Tukaram Kohade vs. State of Maharashtra) decided on 17/08/2022, **Writ Petition No.631/2020** (Ku.Sangita d/o Ramdas Bashirseth vs. The State of Maharashtra) decided on 29/09/2023 and **Writ Petition No.920/2020** (Rajendra S/o Ramrao Likhar vs. The State of Maharashtra) decided on 07/10/2023.

(7) *Per contra*, learned counsel for respondents Nos.2 and 3 oppose the claim of the petitioner, propounding that the claim of the petitioner as she belongs to Halba, Scheduled Tribe, was rejected by the Scrutiny Committee and declared that she belongs to 'Koshti' caste. Therefore, she is not entitled to the relief as claimed. However, he fairly submitted that vide order dated 26/04/2005, passed in W.P.No.954/2002, the services of the petitioner are protected as per the observations made by the Hon'ble Apex Court in the case of **State of Maharashtra vs. Milind Katware** reported in **2001(1) Mh.L.J.1**.

(8) He further canvassed that by G.Rs. dated 21/12/2019 and 14/12/2022, the employees whose Scheduled Tribe claim was invalidated had to be placed on supernumerary post for 11 months. Therefore, respondents Nos.2 and 3 have not committed any illegality while passing the impugned order. Hence, respondents Nos.2 and 3 urge to dispose of the petition.

(9) We have appreciated the submissions of learned counsel for both sides and perused the judgments relied on along with Government Resolutions.

(10) At the outset, it appears that, by virtue of an order dated 26/04/2005, passed in Writ Petition No.954/2002, the petitioner was reinstated on the post of Lecturer. It is pertinent to note that

respondent No.3 vide communication dated 21/06/2005 has been reinstated to the petitioner against the Open category. *Besides*, the employer/respondent No.3 and 4 have not questioned the Judgment and order passed by this Court in W.P.No.954/2002 until now. Thus, the petitioner's case appears to be covered by the Judgment of the Aurangabad Bench delivered in Writ Petition No.903/2020 (Raja Shinde – cited supra). Therefore, passing the impugned order by respondent No.3 is not sustainable. *Moreover*, by communication dated 21/06/2005, the petitioner was reinstated against the Open category. Therefore, in view of the observations made in the above case of Raja Shinde (cited supra), the petitioner is entitled to continue in service based on the earlier order passed in Writ Petition No.954/2002 and other connected petitions.

(11) In the background above, we deem it appropriate to set aside the impugned communication dated 24/01/2024 passed by respondent No.3. Accordingly, said communication is quashed and set aside. As a sequel of the above, the petitioner is entitled to continue in employment in terms of the order passed in Writ Petition No.954/2002.

Rule is made absolute in the above terms. No costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]