



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 5759 OF 2023

na d/o Ramdas Nandanwar @ Vandana w/o Krishna Sonkusare Vs. State of Maharashtra and
ors)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.K. Patil, Advocate for petitioner.
Mr. H.R. Dhumale, AGP for respondent No.1.
Mr. M.L. Vairagade, Advocate for respondent Nos. 2 and 3.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 17-12-2024

Heard learned Counsel for the petitioner.

2. The petitioner, who was appointed as Arogya Sevika (Women) at Primary Health Centre Rani Sub Centre Chigali on a post reserved for Scheduled Tribe category, was granted validity by Scrutiny Committee, of belonging to the Special Backward Class by certificate dated 321.8.2013. The result of this was that by an order 26.12.2019, the claim of the petitioner to the post reserved for ST candidate, having been found to be incorrect, by virtue of the GR dated 21.12.2019, she was placed on a supernumerary post.

3. Though the petitioner claims right to be granted the 2nd Time Bound Promotion w.e.f. 15.6.2019 on completion of 24 yrs of uninterrupted service, however, in view of clause 3(1) of the GR dtd 7.5.2024, since the claim of the petitioner, to the post which she was appointed, which was reserved for a candidate belonging to the Scheduled Tribe Category, was found to be incorrect, the promotion has been rightly denied to the petitioner as the same is prohibited to an employee who has been placed on a supernumerary post, in view of the language of clause 3(1) of the G.R. above. We therefore, do not see any infirmity in the denial of the 2nd Time Bound Promotion

to the petitioner as her very appointment, has been brought into disrepute, on account of her claim of belonging to the Scheduled Tribe Category, for which the said post was reserved, was turned down by the Scrutiny Committee.

4. The petitioner, who is also a differently abled person, having a Locomotor Disability on account of which she has 55% permanent disability, in the alternate, had sought regular promotion to the higher post. Though the petitioner before the applicability of the GR dtd. 21.12.2019, was placed at serial No. 2 in the merit list for the disability quota for grant of promotion, however, since the initial appointment of the petitioner was not in the disability quota, in terms of Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and her claim of belonging to the Scheduled Tribe category, was found to be incorrect, the claim for regular promotion has rightly been denied as any promotion would basically depend upon the legality and validity of the initial appointment and as the initial appointment itself is found to be invalid, on account of which the employee has been placed in a supernumerary post, that will have a consequent effect, of denying any promotion to the employee, even on a regular basis as that status, no longer stands good and valid for the employee/petitioner.

5. In that view of the matter, we are not inclined to interfere in the petition. The petition is dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)