



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

WRIT PETITION No.180 OF 2024

(Ambesh Ramdulare Shrivastav Vs. The State of Maharashtra, through its Secretary for Urban Development Department, Mumbai and others)

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

Court's or Judge's orders.

Mr. M.A. Vaishnav, Advocate for petitioner.
Ms. N.P. Mehta, AGP for respondent No.1.
Mr. Amol Deshpande, Advocate for respondent No.2.

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

DATE : 27th MARCH, 2024.

1. On 30th March, 1999 petitioner was appointed with the respondent-Municipal Corporation against a post which was reserved for Vimukta Jati (A) for which the petitioner was holding a caste certificate.

2. The appointment order contemplates the petitioner to produce the validity certificate within a period of 90 days which he has failed to produce. As a sequel, his services were terminated for failure to produce the validity certificate. The order of termination dated 6th January, 2021 is questioned on the ground that the petitioner has produced validity which was issued on 16th February, 2022. Based on the above, it is claimed that termination order cannot be sustained as the petitioner holds validity and was rightly so appointed with the respondent-Corporation against a reserved seat.

3. The counsel for petitioner would urged that in similar situation two of the employees were granted benefits and also the Division Bench of this Court in the matter of **Aakash s/o. Ravindra Devke Vs. Brihanmumbai Mahanagarpalika and others**, reported in **2017(2) Mh.L.J. 667** has taken a view to confer the benefit on a candidate as were existing prior to issuance of validity certificate.

4. The counsel for petitioner would further urged that though the respondent-Corporation has already processed the request, but for issuance of consequential order of reinstatement the respondent has not issued reinstatement order.

5. While countering the aforesaid submissions, the counsel for the respondent No.2 would urged that appropriate order may be passed.

6. It can be noticed from the record that the appointment of the petitioner was on 30th March, 1999 and after rendering more than 21 years of service he was terminated on 6th January, 2021 that too for failure to produce validity certificate. The Committee has issued a validity certificate referred above in favour of the petitioner. Based on which he has sought reinstatement in service. The validity certificate was issued 16th February, 2022.

7. As such, it can be said that the petitioner's claim was rightly so justified to be belonging to reserved category i.e. Vimukta Jati (A).

8. Failure to produce the validity certificate though is found to be a basis for termination of the service

of the petitioner, however, the fact remains that other similarly placed candidate to produce their validity certificate within the stipulated period of 90 days were granted reinstatement.

9. The petitioner has produced the validity certificate and there exists vacancy of same post with the respondent-Corporation. We are of the view that the petitioner is entitled for reinstatement, in view of the validity issued in his favour. As such, we set aside the order impugned dated 6th January, 2021.

10. We direct the respondent-Corporation to reinstate the petitioner w.e.f. 1st April, 2024. The learned counsel for the respondent No.2 shall communicate this order to the employer of the petitioner.

11. As far as the period of termination i.e. w.e.f. 6th January, 2021 till the date of reinstatement is concerned, it is declared that the petitioner shall not be entitled for benefits of salary, however, shall be entitled for continuity. However, the said period shall be counted for the purpose of pensionary benefits and such other benefits to which the petitioner is lawfully entitled.

12. The petition, accordingly, stands allowed.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)