



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 791 OF 2024

Chand Khan Maheebub Khan

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....
Mr. Navin Shah, Advocate h/f Mr. S.S. Patil, Advocate for petitioner
Mr. A.R. Kale, Addl.G.P. for respondent no.1
Mr. A.B. Gatne, Advocate for reserved nos. 2 and 3
....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : 28th JULY, 2025

PER COURT :

. Heard learned counsel for the parties finally at the stage of admission.

2. Respondent No.3 – Divisional Office of Maharashtra Labour Welfare Board had made request to the Employment Exchange to send the names of the candidates for filling one post of Peon. The Employment Exchange has send nine names for the said one post. The petitioner, who was one of them, was selected and appointed on the post of Peon with effect from 11th January, 1995. The copy of appointment order is at page no.18, Exhibit 'A'. The services of the petitioner on the said post of Peon was confirmed and he was made permanent on 01st April, 2006. The petitioner retired on 31st

October, 2021 from the said post. However, his retiral benefits are not yet released. Since the entire benefits of the petitioner are not released, he has filed present petition under Article 226 of the Constitution of India.

3. The petitioner claims to be belonging to Muslim Khatik community which was earlier in the Scheduled Caste category. Subsequently, in January 2001, the said Muslim Khatik community was included in the OBC category. The petitioner was issued validity certificate as belonging to OBC category by validity certificate dated 15th June, 2021. His retiral benefits are withheld on the ground that initially he was belonging to SC category and he has not submitted his validity certificate for SC category.

4. Admittedly, appointment of the petitioner was not on reserved post. He has completed his entire service and superannuated on the same post. Since the petitioner's caste certificate to which the petitioner belonged, was subsequently brought in the OBC category, the petitioner had submitted the valid certificate of OBC category. The appointment order was not conditional i.e. subject to submission of the validity certificate. For these reasons, no fault can be found with the petitioner for not submitting the validity certificate of SC category.

5. Respondent No.2 has filed the affidavit-in-reply. On going through the same, it is observed that nothing adverse is contended against the

petitioner. The petitioner has completed twenty-seven years of service and the grounds on which the retiral benefits are withheld, are not sustainable.

6. Learned counsel for the petitioner relied on two judgments of this Court passed in Writ Petition No. 3560 of 1997 decided on 18th August, 2010 and Writ Petition No.5889 of 2012 decided on 05th September, 2013 wherein more or less similar issue was involved and the petitions were allowed with directions to release the retiral benefits of the concerned petitioners.

7. In view of above, writ petition is allowed in terms of prayer clause [B], which reads thus :-

“[B] Your Lordships be pleased to issue appropriate writ, order or direction in like nature to quash and set aside impugned communication dt.26/09/2023 issued by resp. no.2 refusing claim for sanction and release of retirement pension and other benefits and further directions may kindly be issued against resp.no.1 & 2 for sanction and release of retirement and pensionary benefits of petitioner.”

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

SSD