



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO. 8925 OF 2022

ARUN MURLIDHAR SAPKALE
VERSUS
SANTOSH BABULAL CHAVAN AND ANOTHER

Mr. P. D. Bachate h/f Mr. A. D. Khot, Advocate for the petitioner
Mr. C. V. Dharurkar, Advocate for respondent No.1
Mr. M. B. Karande h/f Mr. S. R. Patil, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 2nd MAY, 2025

PER COURT :-

1. By consent of both sides, petition is heard finally at the stage of admission.
2. This petition takes exception to the order dated 11/07/2022 passed by the University and College Tribunal in Appeal No. KBCNMU-01/2021, whereby the Tribunal has set aside the order passed by the Grievance Redressal Committee dated 31/12/2020, whereby the promotion granted to Respondent No.2 on 05/07/2004 to post of 'Senior Assistant' came to be set aside and Respondent No.1 i.e. Petitioner herein was granted said promotional post.
3. The facts which led to the filing of this petition can be narrated in brief as under:

(i) It is a case of the Petitioner that Respondent No.1 though was appointed as 'Peon' on 04/10/1991, his appointment was not by following due procedure of recruitment. There is however no dispute about the fact that the appointment of Respondent No.1 was confirmed by Respondent No.2 University on 12/06/1993. It is further case of the Petitioner that the service book of Respondent No.1 indicates that he belongs to the Scheduled Tribe (ST) category and that she has claimed the employment from the said category so also the promotion to the post of 'Khansama' on 12/08/1996 and Assistant on 30/09/1998.

(ii) As against this, Petitioner came to be appointed as Assistant from Special Backward Class (SB) category on 19/06/2000 after going through proper recruitment process. When the promotional avenue was available, the Petitioner competed with Respondent No.1, who was granted promotion on 05/07/2004. The Petitioner makes grievance that the Government of Maharashtra has directed the grant promotion to the employees from their respective categories by resolution dated 27/05/2002. Similarly on 17/06/2002 Respondent No.1 was called upon to produce caste certificate. In response to the same Respondent No.1 produced validity certificate indicating that he belongs to SBC category.

(iii) Petitioner had grievance that Respondent No.1 has been appointed to the post reserved for the ST category, so also he was

granted promotion in the same category, and as now it is claimed that Respondent No.1 does not belong to ST category, but belongs to SBC category. The Petitioner contends that Respondent No.1 cannot be treated as senior to him in SBC category. Being aggrieved by grant of promotion to Respondent No.1, Petitioner approached to the Grievance Redressal Committee. The said Committee after hearing both sides passed order dated 31/12/2000 proceeded to set aside the order of promotion granted to Respondent No.1 herein on 05/07/2004 and granted promotion to the Petitioner.

(iv) This order came to be taken exception before the University and Tribunal successfully by Respondent No.1. University Tribunal by impugned order has held that Respondent No.1 was neither appointed to the post reserved for ST category nor for promoted in such post. It is further observed that admittedly Respondent No.1 belongs to SBC category. With these observations it is held that Respondent No.1 was within his right to get the promotion of 'Senior Assistant' and that the order passed by the Grievance Redressal Committee KBCNMU, Jalgaon on Complaint No. 9/2018 is not tenable and set aside the same.

4. Learned counsel for the Petitioner submits that there is abundant documentary evidence on record to indicate that Respondent No.1 has posed himself to be belonging to ST category. In this regard

reference is made to the service book of Respondent No.1 which indicates so. He has further placed reliance on the seniority list published by the University indicating the category of Respondent No.1 has ST category. Thus, it is his submission that once Respondent No.1 has availed the benefits of ST category, now it is not open for him to take benefit of SBC category. It is his submission that the reply filed by the University also indicates that Respondent No.1 was always been treated as the employee belonging to ST category and therefore the Tribunal has committed error in causing interference in the order passed by the Grievance Redressal Committee.

5. Learned counsel for Respondent No.1 supported the impugned order. It is his submission that Respondent No.1 has never been appointed in the post reserved for ST category or promoted in such category. It is his submission that undisputedly Respondent No.1 belongs to SBC category and as such the promotional post available for the said category in the rightfully entitled by him.

6. The whole grievance of the Petitioner seems to be is that the Respondent No.1 has misrepresented to the University while in service indicating himself to be candidate belonging to ST category and availed benefits thereof and hence now he cannot claim promotion in the post reserved for SBC category. Admittedly, Respondent No.1 is appointed in

the year 1991 and was promoted in 1998 as Assistant. There is absolutely no evidence on record to indicate that Respondent No.1 was appointed to the post reserved for ST category for even promoted to such post. Though appointment of Respondent No.1 is of year 1991, but till 2002 he was never called upon to produced his caste certificate. When he was called out to produce his caste certificate, he has produced his caste certificate indicating that he belongs to caste 'Koli' which is SBC category.

7. Though it is now sought to be argued on behalf of the Petitioner that the initial appointment of Respondent No.1 was invalid for not pressing the due procedure of appointment, it is too late in the day to make such grievance, more so when there is no challenge either to the appointment of Respondent No.1 to the post of Peon or even to the promotion granted to him as a Assistant in 1998. In any case in since there is no evidence to indicate that Respondent No.1 has taken benefit of ST category either at the time of appointment or at the time of first promotion, question of there being any embargo created against him to claim himself belonging to SBC category does not arise.

8. Now there is no dispute made by the parties with regard to fac that Respondent No.1 belongs to SBC category. The promotion post also undeniably is reserved for SBC category. In such circumstances, the

observations made by the Tribunal in paragraph 10 of the impugned judgment are correct since in consonance with the material on record. As such the same cannot be called as perverse by any stretch of imagination.

9. The Grievance Committee has overlooked the fact that Respondent No.1 has neither been appointed to the post belonging to ST category nor promoted to the post reserved to this category. In absence of any such benefit being availed by Respondent No.1, and admittedly when he belongs to SBC category, there is no question of denying the promotion to the same.

10. In view of above discussion, there is no reason to cause any interference in the impugned order. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp