

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.14071 OF 2024**

Aruna Shivdas Vasakar

Age- 60 years Occ: Retired,

R/o. Vivek Nagar, Kadivali Road,

Nr. New S. T. Depot Wada,

Tal. Wada, Dist. Palghar.

.....Petitioner

**Vs.**

The State of Maharashtra

through Secretary,

Health dept., Mantralaya,

Mumbai -400032

2 The Chief Executive Officer,

Zilla Parishad Palghar, Health Dept.,

116, First floor, Zilla Parishad

Building., Kolgaon, Palghar-Boisar

Road, Tal.& Dist. Palghar.

3. District Health Officer,

Zilla Parishad Palghar, Health Dept.,

Zilla Parishad Palghar,

Tal. & Dist. Palghar.

4. The Health Officer,

Primary Health Center,

Kadus, Tal. Wada, Dist. Palghar.

.....Respondent

Mr. Swaraj S. Jadhav a/w Mr. Vijay R. Garad for the Petitioner.

Mr. V. M. Mali, AGP for the State/Respondent No.1.

Ms. Rajashri Karande for the Respondent Nos. 2 to 4.

**CORAM : RAVINDRA V. GHUGE &  
ASHWIN D. BHOBE, JJ.**

**DATE : 17<sup>th</sup> APRIL, 2025**

**ORAL JUDGMENT PER (RAVINDRA V. GHUGE, J.):-**

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner joined service as a Lady Health Visitor in the Health Department with Respondent Nos. 2 to 4, on 23<sup>rd</sup> February, 1994. She superannuated on 31<sup>st</sup> July, 2022 as Health Assistant. It is an admitted position that when she was appointed in service on 23<sup>rd</sup> February, 1994, she has never applied for a post reserved for any Backward Category. She belongs to the Tirumal, NT Category.

3. It is the contention of the Corporation that the Petitioner was issued with an order of promotion dated 21<sup>st</sup>

February, 2000, by which she was posted as Health Assistant (Women) at the Primary Health Centre at Worli, Tal. Wada. District Thane. Her name prior to her marriage was A. S. Wairagade. After her marriage, her name is Aruna Shivdas Vasakar. She was promoted because of her reservation.

4. The copy of the promotion order which was not on record, is tendered across the bar, which is marked as 'X' for identification. Though, the social status of the Petitioner is mentioned in the promotion order, it does not appear from the said order that the Petitioner was promoted on a post which was reserved for the ST Category. It is obvious that the Petitioner admittedly belongs to the NT Category and it is wrongly stated in the promotion order as ST Category. Nevertheless, there is not a whisper in the promotion order that the Petitioner was promoted on a post reserved for the backward Category, thereby warranting the submission of the Validity Certificate.

5. It is undisputed that after the Petitioner joined duties, she was never called upon to tender a Validity Certificate. A copy of the letter dated 30.09.2020, is placed on record. It appears that the

Medical Officer, Primary Health Centre, Kudus, had issued a communication to the Petitioner asking her to tender a Validity Certificate. It is tried to be conveyed to the Court that the signature appearing on the said document as “Shrim. Aruna Vasakar” is the signature of the Petitioner. The learned Advocate for the Petitioners submits on instructions that this letter was never served on her, inasmuch as, her signature appearing on the verification to this Petition, as well as, on the identity card at page No.13, may be perused which indicates a completely different signature.

6. We find that a single glance at the signature of the Petitioner below the verification and her identity card, convinces us that it is completely different than the signature shown to us by the learned Advocate for the Corporation at page No.90. Nevertheless, we do not intend to go into this controversy for the sheer reason that there is nothing on record, to prove the Respondent’s contention. In fact, it proves two things. Firstly, that the Petitioner was never promoted on a post reserved for the backward category. And secondly, that the proposal of the Petitioner was never forwarded to a Competent Scrutiny Committee for dealing with her NT-D Tribe Certificate under the provisions of the Maharashtra Scheduled

Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

7. In the absence of any evidence that the Petitioner was appointed on a post reserved for a backward category, there is no requirement for tendering a validity certificate. Had the Petitioner's promotion been on the reserved post in the admitted backdrop of the Petitioner having been appointed from the Open Category, the need for a validity certificate could have arisen. For these reasons, we find that this Petition deserves to be accepted.

8. This Court has delivered a judgment on 19<sup>th</sup> October, 2022 at the Nagpur Bench, in the case of ***Uday S/o Murlidhar Kohat Vs. State of Maharashtra and Ors.*** (WP No.2474 of 2021), wherein this Court had noted that until the retirement of the said Petitioner, she was never called upon to tender a Validity Certificate. Hence, this Court directed the employer to finalize the Petitioner's pension papers and release the pensionary benefits within three months.

9. In view of the aforestated reasons and on drawing a conclusion that neither the Petitioner was appointed or promoted on a reserved post, nor is there any evidence that her proposal was forwarded for seeking Validity Certificate, **this Writ Petition is allowed.**

10. Respondent Nos. 2 to 4 are directed to formalize the pension proposal of the Petitioner and ensure that her pension payment commences within a period of 90 days from today. Arrears of pension amount along with statutory interest, shall be payable to her within a period of 90 days.

11. Rule is made absolute in the above terms.

**(ASHWIN D. BHOBE, J.)**

**(RAVINDRA V. GHUGE, J.)**