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

WRIT PETITION NO. 466 OF 2020

Anilkumar S/o Mannalal Singh
age : 62 years, Occ : Retired,
R/o 840, Pitruchhaya Building,
C.A.Road, Jalalpura, Gandhibag,
Nagpur

.. Petitioner

Versus

1) Under Secretary,
Government of India,
Department of Revenue,
Central Board of Direct Taxes,
Adv. VII Section, Room No.10,
5th Floor, Jeevan Vihar Bulding,
Parliament Street,
New Delhi – 110001
2) The Joint Commissioner and Vice-Chairman,
Scheduled Tribe Caste Certificate
Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur
3) Additional Commissioner (P&V),
Office of the Commissioner,
Customs & Central Excise,
Central Excise Building,
Dhamtari Road, Takrapara,
Raipur – 492001 (C.G.)
4) Additional Commissioner (P&V),
Customs & Central Excise (GST),
Revenue Building (GST Building),
Near Income Tax Office, Telangkhedi
Road, Nagpur

.. Respondents

Mr. S.R. Narnaware, Advocate for petitioner.
Mr. S.N. Bhattad, Advocate for respondent No.1.
Mr. S.M. Ukey, Addl. G.P. for respondent No.2.
Mr. K.K.Nalamwar, Advocate for respondents No.3 and 4.

CORAM : AVINASH G. GHAROTE AND ABHAY J. MANTRI, JJ.

DATED : MARCH 10, 2025

JUDGMENT (Per : Abhay J. Mantri, J.)

Heard. **Rule.** Heard finally with the consent of the learned counsel appearing for the parties.

(2) The challenge is raised to the order dated 20/05/2019 passed by the respondent No.2 Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur (for short '*the Committee*') thereby invalidating the claim of the petitioner that he belongs to "*Thakur*" Scheduled Tribe and for quashing and setting aside the communication dated 06/01/2020 issued by respondent No.3- the Additional Commissioner (P & V) directing the petitioner to deposit all the financial benefits availed by him by virtue of his appointment in the department. Also challenge is laid to the validity of Section 6(1) and Rule 9 of the Maharashtra Scheduled Tribes (Regulation of Issuance & Verification of) Certificate Rules, 2003, as unconstitutional and in contravention of the direction of the Hon'ble Apex Court. (for short - "*the Rules 2003*")

(3) During the pendency of the petition, the petitioner amended the petition and challenged the letters dated 17/01/2020 and 20/01/2020 issued by respondent No.3, thereby requesting the Pay and Account officer to stop his pension from January 2020 onwards.

(4) It is pertinent to note that during the argument, on instructions, the learned counsel for the petitioner restricted his claim only to prayer clauses (iv), (v-a) and (v-b) and given up his claim for the rest of the prayers. His statement is accepted. He further contended that the matter is covered by the judgment of this Court in ***Hemant S/o Govindrao Langhe vs. Deputy Director, Health Services, Nagpur Circle in Writ Petition No.2904/2022, decided on 25/08/2023;*** it is therefore contended that the petitioner be granted retirement benefits.

(5) In response, learned counsel for the respondents does not dispute the proposition laid down in ***Hemant S/o Govindrao Langhe*** (supra) and that the facts in both the matters are identical. What is necessary to note is that the petitioner was appointed as '*Inspector of Central Excise*' (Ordinary Grade) in the Scheduled Tribe category and was promoted from time to time. Lastly, he got voluntary retirement on 22/02/2018, when the petitioner was working as an 'Assistant Commissioner' [IRS (C&C1)/Group-A Officer].

(6) The petitioner's caste certificate was referred to the Committee on 15/12/2009. His claim was rejected on 20/05/2019, i.e. after his retirement. Respondent No.3 issued a communication dated 06/01/2020, whereby the petitioner was directed to deposit all the financial benefits availed by him by virtue of his appointment in the

department, therefore, the petitioner has challenged the said communication, so also by communication dated 17/01/2020 and 20/01/2020, it was informed to the petitioner that his pension was stopped by the Chief Account Officer and Pay and Accounts Officer, therefore, the petitioner amended the petition.

(7) In ***Hemant S/o Govindrao Langhe*** (supra), while considering a similar issue after considering the law on the point, it has been held that since there was no statutory adjudication while the petitioner was in service, his retirement benefits could not be withheld. Applying the same dictum, we hold that the petitioner would be entitled to his retirement benefits, as there is no statutory adjudication regarding the validity of his 'Tribe Claim' during his service tenure. The petition is accordingly partly allowed in terms of prayer clauses (iv) and (v-a) to the extent it is permissible under the service rules governing the petitioner. The benefits be paid to the petitioner as early as possible and in any case within a period of eight weeks from today. The petition, to the extent of the rest of the prayer clauses, is dismissed. No costs.

[ABHAY J. MANTRI, J.] **[AVINASH G. GHAROTE, J.]**

KOLHE