



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

WRIT PETITION NO.1554/2023

Maharashtra State Electricity Distribution Company Ltd. Through its
Superintending Engineer, Buldhana
...Versus...
Raju s/o Prakashsingh Rajput and another

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

Court's or Judge's orders

Mr. A.D. Mohgaonkar, Advocate for petitioner
Mr. N.B. Kalwaghe, Advocate for respondent No.1

CORAM : ROHIT W. JOSHI, J.
DATE : 22/12/2025

1. The present petition takes exception to the judgment and order dated 04/08/2022, passed by the learned Member, Industrial Court, Akola in Complaint ULP No.1/2012, whereby the learned Industrial Court has held that the petitioner/employer has indulged in unfair labour practice under Item 9 of Schedule IV of the MRTU and PULP Act, 1971 and has further directed the employer to give promotion to the respondent/complainant on the post of Upper Division Clerk, General Administration Department (now called as Human Resources) w.e.f. 17/05/2010 with all consequential monetary benefits.

2. The respondent/employee was appointed on the post of Lower Division Clerk with the petitioner/employer on 17/09/2003 as a candidate belonging to V.J. (A) category. The caste claim of the employee was forwarded to the competent Scrutiny Committee at Amravati, where it remained undecided

for inordinately long period. The caste claim was ultimately forwarded to newly created Committee at Akola, which rejected the caste claim vide order dated 05/01/2015. This order dated 05/01/2015, rejecting the caste claim, was challenged by the employee before this Court vide Writ Petition No.265/2015, which was allowed and the matter was remanded to the Scrutiny Committee for considering the caste claim afresh. Finally, the competent Scrutiny Committee at Buldhana validated the caste claim of the respondent/employee on 09/02/2017. In the meantime, process for granting promotions to Lower Division Clerks to the post of Upper Division Clerks was taken up. The respondent/employee had cleared the departmental examination for this purpose on 17/05/2010. However, since he could not produce the caste validity certificate, his claim was not considered for promotion. Ultimately, after the caste claim was validated, the petitioner/employer has vide order dated 21/12/2020 granted stagnation benefit under Government Order No.74 to the respondent/employee, conferring benefit of pay scale of UDC to the respondent/employee w.e.f. 27/02/2010.

3. The respondent/employee has filed Complaint ULP No.1/2012 raising a grievance with respect to promotion. The contention of the respondent/employee was that although he was not in a position to produce caste validity certificate, his case must be considered for promotion, in the light of judgment of this Court in the matter of *Shrikant s/o Chandrakant Saindane Vs. State of Maharashtra and others*, reported in *2012 (1) Mh.L.J. 787*, as also subsequent

Government Resolution dated 12/12/2011, which came to be issued in the light of the said judgment.

4. Initially, the policy of the Government of Maharashtra was that persons belonging to reserved category should not be considered for promotion unless caste validity certificate is produced. This condition in Government Resolution dated 05/11/2009 was challenged in the case of *Shrikant* (supra). This Court has struck down the said condition and has held that in cases where employee belonging to reserved category seeks benefit of promotion on the basis of reservation, his case should be considered for promotion, subject to production of validity certificate. It is held that promotion in such cases should be granted subject to production of validity certificate. In the light of the aforesaid judgment, the Government of Maharashtra has issued Government Resolution dated 12/12/2011. This Government Resolution dated 12/12/2011 is adopted by the petitioner/employer vide Office Order No.378 dated 04/01/2012.

5. In view of the judgment in the case of *Shrikant* (supra) and aforesaid office order, in the considered opinion of this Court, the case of the respondent/employee ought to have been considered for promotion, subject to production of validity certificate and in any case deemed date of promotion cannot be denied to him. It is not in dispute that the caste claim of the respondent/employee is ultimately upheld by the competent Scrutiny Committee and validity certificate is issued in favour of respondent/employee on 09/02/2017.

6. In view of the aforesaid, no fault can be found with the order passed by the learned Industrial Court, granting benefit of deemed date promotion to the respondent/employee w.e.f. 17/05/2010 i.e. the date on which he has cleared the departmental examination for the promotional post. It will be pertinent to mention that the stagnation benefit conferring higher pay scale is given to the respondent/employee w.e.f. 27/02/2010. The issue of payment of difference in wages therefore does not arise for consideration. However, the question of seniority falls for consideration. In the event, the impugned order is quashed, the respondent/employee will lose the benefit of seniority for no fault on his part.

7. It must also be noted that the findings recorded by the learned Industrial Court with respect to delay in forwarding the proposal do not appear to be justified. However, the conclusion that is drawn needs to be upheld in view of Government Resolution dated 12/12/2011, which is expressly adopted by the employer vide office order dated 04/01/2012.

8. In view of the aforesaid, no case for interference is made out. Writ Petition is dismissed. No order as to costs.

(ROHIT W. JOSHI, J.)