



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 2508 OF 2024

(Shri Rupesh Sudesh Usarbarse and another Vs. The State of Maharashtra and ors)

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

Court's or Judge's orders

Mr. P.S. Sahare, Advocate for petitioners.

Mr. A.S. Mehadia, Advocate for respondent Nos. 2 and 3.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 25-02-2025

Heard Mr. Sahare, learned Counsel for the petitioner and Mr. Mehadia, learned Counsel for respondent Nos. 2 & 3.

2. Rule. Rule made returnable forthwith.

3. The petition claims a direction to respondent No. 3 to appoint the petitioner No. 1 on the post of Safai Kamgar on the heir-ship basis, as per the Lad-Page Committee recommendations on account of the fact, that the petitioner No.2 who is the grandmother of the petitioner was employed as a Safai Kamgar and had demitted employment as such.

4. Mr. Mehadia, learned Counsel for respondent Nos. 2 and 3, opposed the same by contending that the petitioner No. 2, was compulsorily retired on 24.7.2014, on account of having practiced fraud upon the employer / respondent Nos. 2 and 3, by securing employment by giving a false date of birth of 4.3.1964 instead of 28.12.1951. The retirement was made effect from 31.12.2011. This was done on the complaint of the son of the petitioner No. 2. This being the

position, according to him, the petitioner No. 1 is not entitled for any appointment in terms of the Lad-Page Committee recommendations and the impugned communication dated 4.4.2018 (p 14) needs to be sustained. He further submits, that an application filed by the petitioner No. 1 on 18.2.2016 for the very same purpose came to be rejected on 21.3.2016, another application dated 20.1.2017 came to be rejected on 12.5.2021 and which are not being questioned in the present petition, on which count also, the impugned communication is liable to be sustained.

5. The Position, that the petitioner No. 2 had secured employment as a Safai Kamgar on the basis of an incorrect date of birth of 4.3.1964, in place of the actual date of birth i.e. 28.12.1951, which was brought to the notice of the employer by the complaint filed by the son of the petitioner No. 2 was verified and found to be correct on account of which the employment of the petitioner was brought to an end by the communication dated 24.7.2014 w.e.f. 31.12.2011. The petitioner No. 2, in fact, by her communications dtd. 2.2.2015 (p26) has accepted this position, and has not challenged the severing of the relationship. On the contrary, the communication dated 2.2.2015 (p 26) accepts the above position and indicates the willingness of the petitioner, to make deduction on account of excess payment made to her, from whatever was payable to her on the above count. This would indicate to us that the fact of having secured the employment by fraudulent means has been accepted by the petitioner No. 2, as there is no challenge raised by her to the communication dated

24.7.2014, by which her services were brought to an end.

6. Even the rejection of the application by the petitioner No. 1 dated 18.2.2016 on 21.3.2016 as well as another application dated 20.1.2017, on 12.5.2021, has not been disclosed in the petition. This would indicate suppression at the behest of the petitioner No. 1 also.

7. Considering the above, we are not inclined to entertain the petition. The same is dismissed. Considering the suppression made in the petition, we deem it appropriate to impose costs of Rs. 20,000/- (Rs. Twenty Thousand) upon the petitioner to be paid to the Raman Science Centre and Planetarium, Subhash Road, Empress City, Nagpur, Maharashtra 440 018. The petitioner is permitted to pay the cost to the said Association by NEFT/RTGS or any other online mode of payment, permissible in law. The Bank details of the said Raman Science Centre, Nagpur are as under:-

“Name :- Raman Science Centre and
Planetarium, Nagpur
Account No. 0306101022235
Name of Bank : CANARA BANK
Branch Name and Address: Sitabuldi Branch, Nagpur
IFSC Code : CNRB0000306,
MICR Code 440015002”

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)