

JVS.

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

WRIT PETITION NO. 800 OF 2026

The Principal General Manager	}	
Bharat Sanchar Nigam Limited	}	Petitioner
Versus		
State of Maharashtra & Anr.	}	Respondents

Ms. Neeta Masurkar with Ms. A. R. Shrivastava i/b.
Reliable Legal Partners, Advocates for the Petitioner.

Mr. O. A. Chandurkar, Additional Government Pleader
with Mr. Ketan Joshi, 'B' Panel Counsel for
Respondent No. 1-State.

Mr. Ramesh T. Diwate, Advocate for Respondent No. 2.

**CORAM: SHREE CHANDRASHEKHAR, C.J. &
SUMAN SHYAM, J.**

DATE: 23rd JANUARY 2026

P.C.:

Aggrieved by the order dated 19th June 2025 passed in Original Application No. 223 of 2022 by the Central Administrative Tribunal, Mumbai Bench, Mumbai (in short, Tribunal), the Bharat Sanchar Nigam Limited (in short, BSNL) through its Chief Managing Director and other officers has filed this writ petition under Article 226 of the Constitution of India. The operative portion of the order passed by the Tribunal reads thus :-

- “(i) Application is allowed.*
- (ii) Condition of withholding pension subject to production of caste validity certificate in order dated 31st January, 2020 (Annexure-A colly.) to the extent of para 3 stands set aside.*
- (iii) The respondents shall release pensionary benefits and ex-gratia payment to the applicant in terms of the VRS Scheme within three months from the date the respondents receive certified copy of this order.*
- (iv) Pending Mas, if any, stand closed. No costs.”*

2. Before the Tribunal, an ex-employee of the BSNL who is the respondent no. 2 in the present proceedings laid a challenge to the order dated 30th January 2020 by which the retiral benefits including ex-gratia payments were withheld till the time he produced his caste validity certificate.

3. Ms. Neeta Masurkar, the learned counsel for the petitioner-BSNL submits that a disciplinary proceeding was initiated against the respondent no. 2 under Rule 61 of the BSNL Conduct, Discipline and Appeal Rules, 2006 (in short, the Rules of 2006). The BSNL proceeded against the respondent no. 2 by virtue of the Office Memorandum dated 30th November 2021 and provided provisional pension to him pending the departmental proceedings. However, the respondent no. 2 did not produce his caste validity certificate notwithstanding several directions issued to him before his superannuation date.

4. This is the submission made on behalf of the petitioner-BSNL that an employee who is not entitled to seek appointment in a caste category is liable to be dismissed from service and he cannot claim any benefit of his past service.

5. The respondent no. 2 who was appointed on 22nd March 1990 as a Telephone Operator was made permanent on 16th January 1992. He appeared in LDCE for the post of Junior Engineer under 40% quota. At the time of his appointment, the respondent no. 2 filled an attestation form wherein he disclosed his caste as the Scheduled Tribe. On this basis, the petitioner-BSNL contends that the respondent no. 2 belongs to the Scheduled Tribe.

6. However, the Tribunal has rendered a finding that no material was produced before it to establish that the respondent no.2 belongs to a reserved category. There is an endorsement in his service records that he belongs to the caste-Mahadev Koli but,

nowhere it is indicated in his appointment letter that he was appointed on a seat reserved for the Scheduled Tribe. Besides that, we may also indicate that Rule 61 of the Rules of 2006 shall not apply in case of the respondent no. 2 inasmuch as Rule 61 provides for continuance of a disciplinary proceeding which was initiated against the delinquent employee but not concluded before he attained the age of superannuation. The Tribunal referred to the decision of this Court (Nagpur Bench) dated 23rd March 2022 in Writ Petition No. 547 of 2021 titled “*Namdeo s/o. Dashrath Nikhare v. Secretary, Public Works Department, Mantralaya & Ors.*” and held that withholding of pension of the respondent no. 2 till he produces his caste certificate is illegal. In “*State of Jharkhand & Ors. v. Jitendra Kumar Srivastava & Anr.*” (2013) 12 SCC 210, the Hon’ble Supreme Court held that the pensionary benefits of a government employee cannot be withheld on the ground that a disciplinary proceeding is continuing against him.

7. In view of the aforesaid discussion, Writ Petition No. 800 of 2026 is dismissed.

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[SUMAN SHYAM, J.]

[CHIEF JUSTICE]