



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4012 OF 2025

Dilip S/o Sudhakar Satphale
Aged about 61 yrs, Occ. Service,
R/o Plot No. 134, Jambudip Nagar,
Nagpur

...PETITIONER

VERSUS

1. The Vice-Chairman & Member-Secretary,
District Caste Certificate Scrutiny
Committee, Nagpur
2. Zilla Parishad, Nagpur,
Through its Chief Executive Officer,
Civil Lines, Nagpur
3. Sub Divisional Irrigation Officer
(Water Conservation),
Zilla Parishad, Sub Division,
Hingna, Nagpur

...RESPONDENTS

Shri S.R. Narnaware, Advocate for petitioner
Ms M.S. Naik, AGP for respondent/State
Shri S.R. Charpe, Advocate h/f Shri R.,D. Karode, Advocate for respondent No. 2

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 15.04.2026
PRONOUNCED ON : 24.04.2026

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of parties.

3. The present petition is filed under Article 226 of the Constitution of India, seeks a direction to the respondent No.2, i.e., Zilla Parishad, Nagpur, to release the entire retiral benefits to the petitioner.

4. Even though prayer Clause (ii) of the petition prays for quashing the invalidation order dated 30.12.2024, passed by the respondent No.1, the same has not been pressed by the learned Counsel for the petitioner vide communication dated 29.11.2024. We have observed this fact in our order dated 15.04.2026, and therefore, the contentions in the petition are being adjudicated only as far as prayer Clause (i) is concerned.

5. Facts which are more or less undisputed are as under :

The petitioner was appointed as a junior engineer on 30.05.1985 against the vacancy reserved for the Nomadic Tribe B, since the petitioner submitted a caste certificate belonging to

‘Otari’ Nomadic Tribe B. Thereafter, only on the verge of retirement after 35 years of service, and more precisely on 19.10.2020, the employer, i.e., the respondent No.2 preferred his caste claim to the respondent No.1 for validation. Thereafter, on 26.10.2020, the petitioner was terminated from service by the respondent No.2 on the ground of non-submission of the validity claim. This prompted the petitioner to approach this Court by filing a Writ Petition No. 913/2021. This Court vide order dated 22.08.2024 disposed the petition by taking into consideration the rival contentions of the parties. The relevant portion of the order of this Court in the said writ petition is reproduced as under :

“3....We, therefore, have no other option than to set aside the impugned order dated 26/10/2020, terminating the services of the petitioner and the same is accordingly done. The petitioner, therefore in view of the aforesaid, would be entitled to claim pensionary benefits from the respondent No.2-employer, as that would be a consequential effect of setting aside of the order of termination. That does not, however, deter the Scrutiny Committee from deciding the claim of the petitioner. The petitioner is therefore directed to appear before the Scrutiny Committee on 02/09/2024. The Scrutiny Committee shall decide the tribe claim of the petitioner within a period of six months from 02/09/2024. In case the claim is rejected any benefits which the petitioner may have derived during the interim period shall be liable to be refunded. The petition is disposed of in the above terms. No costs.”

6. It is thus clear that the order of termination was set aside but at the same time the Scrutiny Committee was directed to decide the said claim, and thereafter the respondent Scrutiny Committee decided the said claim on 30.12.2024 and invalidated the caste claim of the petitioner.

7. As stated by us supra, that even though the petition was filed challenging the invalidation as also for grant of retiral benefits, the petitioner has not pressed the claim as well as confined the same to grant of retiral benefits.

8. We have heard Shri Narnaware, learned Counsel for the petitioner, as also Shri S.R. Charpe, learned Counsel for respondent No.2, and Ms M.S. Naik, learned Counsel for respondent/State.

9. The learned Counsel for the petitioner, by taking us through the record of the matter, submits that the denial of retiral benefits by the respondent No.2 is totally unwarranted in law. He further submits that the respondent No.2 ought to have appreciated that the petitioner has rendered 35 years of unblemished service till his termination on 26.10.2020. Even the said termination was set aside

by this Court in the writ petition mentioned supra. He, therefore, submits that there is no statutory provision or Rule to withhold the pensionary benefits. He therefore prays for releasing of the pensionary benefits in favour of the petitioner.

10. While opposing the contentions advanced by the learned Counsel for the petitioner, the learned Counsel for respondent Nos. 2 and 3 supports withholding of retiral benefits. He submits that there is nothing wrong withholding the retiral benefit of the person like petitioner since his claim has been invalidated. He submits that a statutory fallout of Section 10 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 is that all the benefits accrued by a person during his service tenure are to be recovered from him. He therefore supports the impugned action. While differentiating the judgment in the earlier round of litigation, the learned Counsel for the petitioner submits that “the interim period” as observed by this Court in the earlier round of litigation would obviously mean any benefit which the petitioner has derived till invalidation.

11. We have considered the contentions canvassed by the learned Counsel for the respective parties. It is a matter of fact that the petitioner was terminated on 26.10.2020, while he was due for retirement on 31.10.2020. This termination was set aside by this Court in earlier round of litigation vide order dated 22.08.2024, but with a direction to the Scrutiny Committee to decide the claim in accordance with law. It can also be seen from the record that the validity was rejected on 31.12.2024. It can thus be seen that the petitioner had already superannuated on 30.10.2024 and had not suffered an order of invalidation during his service tenure. It was only on 30.12.2024, i.e., after four years of his superannuation, that the claim was invalidated. A necessary corollary to this aspect would be that the petitioner rendered continuous and uninterrupted service during his entire period of 35 years.

12. It therefore follows that he would be entitled for pensionary benefits since the order of invalidation is much after the date of retirement. The learned Counsel for the petitioner has placed reliance on a judgment of this Court in *Writ Petition No. 2397/2021 Ashok Natthuppa Shelgenwar vs. Accountant General (A & E), II (Maharashtra), Civil Lines, Nagpur and others*. In the

said matter, in identical situation the petitioner therein superannuated on 31.10.2020 and the Scrutiny Committee passed an order of invalidation on 02.11.2020. In that context co-ordinate bench of this Court observed that even though the claim of the petitioner was referred to the Scrutiny Committee while he was in service, the same was adjudicated after his retirement. Thus, in the present case also, till the date of petitioner's superannuation, his claim was not been invalidated. Thus, in our view, there is no reason to hold the retiral benefits. The Co-ordinate Bench has relied upon the judgment of the Hon'ble Apex Court in *State of Jharkhand and others versus Jitendrakumar Shrivastav, reported in 2013 12 SCC 210*, to submit that in absence of any statutory prohibition, the petitioner's retiral benefits could not have been withheld.

13. The learned Counsel for respondent No.2 and 3 has tried to differentiate this judgment by stating that in the said matter before the coordinate bench, the petitioner was not terminated as has been in the present case. However, that would not take the case of the respondent any further since the termination of the petitioner has merged into the order of this Court, which has set aside the

termination in the earlier round of litigation. Thus, the fact remains that the petitioner continued to be in service and till his superannuation on 31.10.2020, his claim has not been invalidated. We are therefore in respectful agreement with a view taken by the Co-ordinate Bench in the Judgment of ***Ashok Shelgenwar*** referred supra and hold that the action of withholding the retiral benefits cannot withstand the scrutiny of law. We therefore pass the following order :

ORDER

- i) The Writ Petition is allowed, in terms of Prayer Clause (i).
- ii) We further direct the respondent No.2, i.e., Zilla Parishad, Nagpur, to release the entire retiral benefits such as pension, gratuity, leave encashment etc. to the petitioner within three months from the date of this order.
- iii) If such an amount is not paid within three months as aforesaid, the same would carry an interest at the rate of 6% per annum from the date it became due till its actual realization.

14. The Writ Petition is allowed and disposed of.

(NANDESH S. DESHPANDE, J.)
Jayashree..

(SMT. M.S. JAWALKAR, J.)