

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 858/2018 (D.B.)**

Pradipsingh S/o Chhatrapalsingh Chandel,  
Aged about 53 years, Occ. Service,  
R/o Deshmukh Fall, near Vitthal Mandir,  
Akola-444 003.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through Secretary, Ministry of Public Works Department,  
Mantralaya, Mumbai-32.
- 2) Chief Engineer (Electrical),  
Public Works Department,  
3<sup>rd</sup> floor, Bandhkam Bhavan,  
25, Marzban Way, Mumbai-400 001.
- 3) Superintending Engineer,  
Nagpur Regional (Electrical) Board,  
Public Works Department, Nagpur.
- 4) Executive Engineer,  
Amravati Electrical Department,  
P.W.D., Amravati.

**Respondents.**

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**Shri R.S. Khobragade, Mrs. S.R. Khobragade, Advs. for the  
applicant.**

**Shri M.I. Khan, P.O. for respondents.**

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**Coram :- Shri Shree Bhagwan,  
Vice-Chairman and  
Shri Anand Karanjkar, Member (J).**

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**Date of Reserving for Judgment : 16<sup>th</sup> October, 2019.**

**Date of Pronouncement of Judgment : 19<sup>th</sup> November, 2019.**

**JUDGMENT****Per : Anand Karanjkar : Member (J).****(Delivered on this 19<sup>th</sup> day of November,2019)**

Heard Shri R.S. Khobragade, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. In this application the applicant is challenging his termination from the service. The facts in brief are as under –

3. The applicant was appointed in service in the year 1986 as his name was recommended by the Employment Exchange on the post of Tracer. The applicant was continued on the said post as regular temporary Government employee by virtue of order dated 7/4/1987 issued by the Dy. Commissioner, Dairy Development and the Superintending Engineer, Mumbai. The applicant was regularized in the service in the year 1992.

4. The applicant received letter dated 23/1/2003 issued by the respondent no.4. By this letter the applicant was called upon to produce his Caste Certificate for verification by the Caste Scrutiny Committee. The applicant submitted his Caste Certificate in the year 2007 and informed that his Caste was “Thakur” and he was member of Scheduled Tribe (S.T.). The Caste Certificate of the applicant was verified by the Caste Scrutiny Committee and the Caste Scrutiny

Committee invalidated the Certificate informing that the applicant was not member of Scheduled Tribe (S.T.). The respondent no.3 issued a show cause notice to the applicant dated 25/7/2017. It was mentioned that the applicant was appointed on a post reserved for the S.T. and the Caste Scrutiny Committee invalidated the Caste Certificate of the applicant, therefore, the applicant was called upon to show cause why his services should not be terminated. It is contention of the applicant that thereafter the impugned order Annex-A-1 came to be passed and his services were terminated by the respondent no.1.

5. We have heard the submissions on behalf of the applicant and on behalf of the respondents. The learned P.O. has submitted that the applicant was appointed on a post which was reserved for the member of S.T., the applicant was called upon to produce his Caste Certificate time to time. The Caste Certificate produced by the applicant was forwarded to the Caste Scrutiny Committee and the Caste Scrutiny Committee vide its order dated 21/4/2017 informed that the applicant has fraudulently obtained the caste certificate and he was not member of the S.T. It is further submitted that the applicant was served with show cause notice after receiving the report of the Caste Scrutiny Committee, the applicant was unable to show reasonable cause and consequently the impugned order at Annex-A-1 was passed. It is contention of the learned P.O. that the impugned

order is legal and correct and the services of the applicant cannot be protected.

6. The learned counsel for the applicant submitted that after his termination the Chief Engineer, Public Works Department (PWD), Mumbai wrote letter dated 21/3/2018 to the Superintending Engineer, Regional Board, Public Works Department (PWD), Nagpur and in this letter the Superintending Engineer was directed to make inquiry on points whether the applicant was appointed on a post reserved for the S.T., he was also directed to verify the fact from the roster. It was also mentioned that the applicant was shown to be appointed on a post for Open quota in the roster dated 1/9/2007. On the basis of this it is contention of the applicant that it was erroneously held by the Department that the applicant was appointed on a post reserved for the S.T., but in fact the applicant was appointed on a post which was for Open category candidate. The learned counsel for the applicant also invited our attention to the documents at page nos. 43,44,45 & 46. It is submitted that in all these documents it is mentioned that the caste of the applicant was "Thakur" and he was appointed on a post for Open candidate. It is submitted that in view of this documentary evidence, it is not possible to accept that the applicant was appointed on a post reserved for S.T., consequently the order of termination is illegal and there was no reason to produce Caste Validity Certificate.

7. In this case the respondents have filed Annex-R-3, it is at page no.78. The Annex-R-3 is dated 3/8/2017. The Annex-R-3 is the representation made by the applicant to the Superintending Engineer, Nagpur Regional (Electrical) Board, P.W.D., Nagpur. In this representation, it is specifically mentioned by the applicant that as per the reference letter no.1, he was appointed in service on 7/4/1987 as a Tracer on a post reserved for S.T. Similarly, in second para of the representation it is candidly mentioned by the applicant that he was appointed on a post of Tracer in the S.T. category, thereafter the applicant forwarded his Caste Certificate for Caste Scrutiny Committee, Amravati. It seems that in the representation it was accepted by the applicant that he was appointed on a post reserved for S.T. category. It is pertinent to note that the applicant is intending to take benefit of the notes in the documents at page nos. 43 to 48 in which it is mentioned that he was appointed on a post for Open category candidate. In our opinion, when admission is given by the applicant that his appointment was on a post reserved for S.T. category, it is not permissible to accept his submission after his termination. In this matter direction was given to the Department to produce the roster of the year 1986-1987 in order to see which posts were available for appointment and on which post the applicant was appointed. It seems that due to some reasons, the Department is not

ready to produce this material evidence. In our opinion the subsequent entries which are taken in the year 2001 and later on, are of no avail. It must be noted that a letter was written by the Mumbai office to the Superintending Engineer, Nagpur to verify the fact on which post the applicant was appointed in the year 1986, then it was duty of that Officer to examine the situation, but it was not done. In this situation, as there is no positive evidence before us to accept that the applicant was appointed on a post which was available for Open category candidate, it is not possible to interfere in this matter, but in view of the circumstances we would like to make it clear that the respondents are at liberty to examine the case of the applicant in view of the roster of the year 1986 and verify whether the applicant was appointed on a post reserved for the S.T. or he was appointed on a post which was available for open category candidate. In view of the candid admission given by the applicant in his representation, in our opinion it is not suitable to interfere in this matter.

8. In this regard we would like to point out that in Annex-R-4 the extract of the service book of the applicant, the caste of the applicant is mentioned as "Thakur" (ST). Here we would like to point out that if the applicant was appointed as Open category candidate why it was mentioned in the service book that he was member of S.T. Even after reading the representation Annex-R-3 it seems that the

applicant was also claiming the relief as per the G.R. dated 15/6/1995. In the representation the applicant has submitted that after perusal of the documents of his father and his paternal Aunt (v/k; k) it reveals that his caste was {kf=; and therefore he decided to obtain certificate that he was member of OBC. The conduct of the applicant informing the Department that he was member of S.T. and thereafter taking a stand when it was found that he was {kf=; to take entry of his caste as OBC. This evidence is sufficient to say that the applicant misrepresented the Department at the time of entry in the service. It appears that as the roster of the year 1986 is not available, therefore, it is attempt of the applicant to secure the benefit. In this situation, we do not see any merit in this application. Hence, the following order –

**ORDER**

The O.A. stands dismissed. No order as to costs.

**(Anand Karanjkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Vice-Chairman.**

**Dated** :- 19/11/2019.

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 19/11/2019.

Uploaded on : 20/11/2019.