

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

BENCH AT NAGPUR

ORIGINAL APPLICATION NO.141 OF 2011

DISTRICT : BULDHANA

Shri Pramod Vitthalrao Parate,)
Age about 30 years, Junior Clerk [at present dismissed])
R/o C/o Shila Kharat, Chetana Nagar, Near Post Office)
Sunderkhed, Buldhana)..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary,)
Finance Department, Mantralaya, Mumbai-32)
2. The Director, Accounts & Treasury,)
Kutir No.16 and 17, Free Press Journal Marg,)
Mumbai 400021)
3. The Deputy Director,)
Accounts and Treasury, Collectorate Compound,))
Treasury Building, Amravati District, Amravati)
4. The Treasury Officer,)
Treasury Office, Near SBI Square,)
Chikhali Road, Buldhana)

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5. The Scheduled Tribes Caste Scrutiny)
 Committee for Verification of Tribe Claim,)
 Irwin Chowk, Amravati, through its)
 Member Secretary and Research Officer)..Respondents

Shri P.S. Wathore – Advocate for the Applicant

Shri A.P. Potnis – Presenting Officer for the Respondents

CORAM : Shri Rajiv Agarwal, Vice-Chairman (A)
 Shri J.D. Kulkarni, Vice-Chairman (J)
 DATE : 25th April, 2017
 PER : Shri Rajiv Agarwal, Vice-Chairman (A)

J U D G M E N T

1. Heard Shri P.S. Wathore, learned Advocate for the Applicant and Shri A.P. Potnis, learned Presenting Officer for the Respondents.

2. This OA has been filed by the Applicant challenging order dated 22.6.2010 passed by the Respondent No.4 removing the Applicant from service for his failure to produce caste validity certificate for Scheduled Tribe Category.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as Junior Clerk on 13.10.2000. The Applicant was appointed from Scheduled Tribe Category. On 29.7.2005, the Applicant submitted necessary documents for verification of his caste to the Respondent No.4, who forwarded the same to the Scrutiny Committee on 6.8.2005. The matter remained pending with the Scrutiny Committee, who are the Respondent no.5 in the present OA. On 22.6.2010, the Respondent No.4 issued a show cause notice to the Applicant, as to why he should not be

removed from service for failure to submit caste validity certificate and the impugned order was passed. The Applicant filed Writ Petition No.4033 of 2010 in the Nagpur Bench of Hon'ble Bombay High Court. By order dated 9.2.2011, Hon'ble High Court remanded the matter to this Tribunal, and hence the Applicant has filed this OA.

4. Learned counsel for the Applicant argued that he had submitted all the necessary documents for verification of his caste claim to the Respondent No.5. It was beyond his power to obtain any decision from the Respondent No.5. The Respondent No.4 should have waited for the decision of the Respondent No.5, before deciding to take any action against the Applicant.

5. Learned Presenting Officer (PO) argued on behalf of the Respondents that the Applicant has not approached this Tribunal with clean hands. The Applicant was asked repeatedly to submit various documents necessary to send the proposal to the Caste Scrutiny Committee. The Applicant, however, did not submit the documents on some pretext or other. On 7.9.2009, the Applicant had asked for 90 days to submit all the necessary documents. The Applicant did not submit the documents, though he was reminded on 27.1.2010 and 4.6.2010. On 5.6.2010, he was given 7 days time. A letter was received from Tahsildar, Anjangaon dated 10.4.2010, wherein it was mentioned that some documents produced by the Applicant were not genuine as they were not signed by Tahsildar, Anjangaon regarding entries in Birth-Death Register of Village Kotegaon. Learned PO argued that the Applicant's claim that his caste verification claim is pending with the Respondent No.5 is incorrect as the Applicant has not submitted all the required documents. As the Applicant did not submit required documents, a notice was issued to him to produce all documents and on his failure to do so by order dated 22.6.2010, he was removed from service. Learned PO argued that the Applicant has

failed to produce even the original caste certificate and he is not cooperating in production of caste validity certificate. The order dated 22.6.2010 is perfectly valid and proper.

6. We find that affidavit in reply has been filed on 10.3.2016 on behalf of the Respondent Nos.1 to 4. It is seen that the impugned order dated 22.6.2010 has 33 references. The Applicant was given temporary appointment by order dated 13.10.2000 and was asked to produce original caste certificate. It is also stated that the Applicant did not submit necessary documents for caste verification, though he was asked from 2002 onwards to submit such documents by the Respondent No.4. In the affidavit in reply, a copy of letter dated 7.9.2009 (Annexure R-1) is enclosed. By this letter the Respondent No.4 had asked the Applicant as follows:

“ संदर्भ क्र. १ दिनांक २२/०७/२००८ अन्वये अनुसूचित जमाती जाती प्रमाणपत्र तपासणी समिती, अमरावती यांचेकडून आपल्या जातीचा दावा पडताळणी अर्ज परिपूर्ण नसल्याने जृटीची पूर्तता करण्यास्तव या कार्यालयाला प्रस्तव परत पाठविण्यात आला होता. या कार्यालयाचे संदर्भ क्र.२ दिनांक ०४/०९/२००८ व तदनंतरचे ७ स्मरणपत्रांमध्ये जृटीची पूर्तता करून प्रस्ताव या कार्यालयाला सादर करणेबाबत आपणास वारंवार लेखी व तोंडी सूचना करूनही आपण जात पडताळणी प्रस्तवावातील जृटीची पूर्तता केली नाही.”

(quoted from page 67 of the OA)

7. It is clear that though a proposal for verification of caste certificate of the Applicant was submitted to the Scrutiny Committee, it was not complete. The Applicant was given a letter on 4.9.2008 and 7 reminders, thereafter, but the Applicant did not furnish the required documents to the Respondent No.4. The Applicant had replied on 17.9.2009 to this letter (Annexure R-2). The applicant stated that he was in possession of

his original caste certificate, but he sought 90 days time to furnish other documents. Those documents were as follows:

- “अ १) जमातीचा दावा पडताळणीचा अर्ज नमुना (इ) नियम ११ (१) चा विहित नमुना.
 २) अर्जासोबत नमुना क मध्ये नियम ११(अ) प्रतिज्ञापत्राचा विहित नमुना
 ३) शपथपत्राचा विहित नमुना ”

(quoted from page 68 of the OA)

8. These documents could be filed by the Applicant, and his claim that he did not have requisite form was apparently a tactic to delay matters. The Applicant did not submit these documents within 90 days, and by letter dated 27.1.2010, the Respondent No.4 against asked him to submit the aforesaid documents within 7 days. A reminder was sent on 4.6.2010. On 5.6.2010, the Applicant wanted a further period of 30 days. He was given 7 more days to comply with the orders on 5.6.2010. The Applicant did not submit documents even after expiry of that period. The Respondent No.4 had also stated that he had received report on 10.11.2010 from Tahsildar, Anjangaon, which shows that some documents submitted by the Applicant were not genuine. It is quite clear that the Applicant did not make any efforts to submit necessary documents for caste verification and was only stalling the process.

9. The Applicant has annexed a copy of order dated 9.2.2011 in Writ Petition No.4033 of 2010. The Applicant was given liberty to approach this Tribunal. In this OA, the Applicant had not mentioned any efforts made by him to obtain caste validity certificate. In fact, it is not necessary that the Applicant should submit document through the Respondents. He could have directly approached the Respondent No.5 to obtain caste validity certificate. However, he does not seem to have made any efforts to obtain the same.

10. Having regard to the aforesaid facts and circumstances of the case, we are not inclined to interfere in this matter. The Applicant had never made any efforts to obtain a caste validity certificate from the year 2002. The Respondent No.4 cannot be faulted for taking action as per law. This OA is accordingly dismissed with no order as to costs.

sd/-

(J.D. Kulkarni)
Vice-Chairman (J)

sd/-

(Rajiv Agarwal)
Vice-Chairman (A)

Dictation taken by: S.G. Jawalkar.

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