

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 290/2016**

Shri Gulab Shivnath Hedau,  
Aged about 40 years, Occupation : Labour,  
R/o Dhapewada, Tq. Kalmeshwar,  
District : Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra  
through its Secretary,  
Health Department,  
Mantralaya, Mumbai-32.
- 2) The Joint Director,  
Health Services (Malaria & Filaria),  
Health Bhavan, in front of Vishrantwadi  
Police Station, Yerwada, Pune-411 006.

**Respondents**

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Shri K.V. & S.V. Deshmukh, Advocate for the applicant.  
Shri S.A. Sainis, P.O. for the respondents.

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**Coram** :- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)  
And  
Hon'ble Shri J.D. Kulkarni, Vice-Chairman (J).

**Dated** :- 25.4.2014

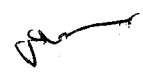
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**ORDER** -

**PER : V.C. (J)**

Heard Shri K.V. Deshmukh, Id. Counsel for the applicant  
and Shri S.A. Sainis, Id. P.O. for the respondents.

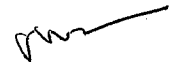
2. The applicant Shri Gulab Shivnath Hedau was selected and appointed on the post of Laboratory Technician on 30-09-2000. As per condition no.15 of the appointment order, the applicant was to produce Caste Validity Certificate within a period of six months from the date of appointment.
3. The applicant accordingly joined his duties as Laboratory Technician on 19-10-2000. The applicant however could not produce the Caste Validity Certificate within stipulated period and therefore his services came to be terminated by the respondent authority vide order dated 26-04-2001.
4. The applicant initially approached the Legal Aid Committee of the Hon'ble High Court and engaged the Advocate also but nothing was done. He, therefore, filed representation to the Joint Director requesting him to invoke the termination and to reinstate him in February, 2008. The said representation came to be rejected by the Joint Director on 27-03-2008.
5. According to the applicant, the Hon'ble High Court has delivered one Judgment in the case of **Arun Sonone Vs. State of Maharashtra** on 22-12-2014, wherein it has been held that the employer shall not terminate the services of the persons who were appointed prior to 28-11-2000. The Hon'ble High Court has



interpreted the said Constitution Bench Judgment of the Supreme Court and has given relief to the similarly situated employees. The applicant has therefore prayed that his termination order dated 26-04-2001 issued by respondent no.2 be quashed and set aside and he be reinstated on the post of Laboratory Technician (Class-III) in the office which comes under the supervisory control of the District Malaria Officer, Bhandara or respondent no.2. If the post is not available in the office of District Health Officer, Bhandara, in that case the respondents be directed to accommodate the applicant in any other Office of the Department under respondent no.2.

6. The O.A. was filed along with the application of condonation of delay. Admittedly, the said application stands allowed and therefore the O.A. is being considered on merit.

7. The respondent no.2 has filed affidavit-in-reply and tried to justify the termination. It is stated that in the G.R. dated 18-05-2013 it has been specifically made clear that the employees who are unable to produce Caste Validity Certificate, shall be terminated according to Section 10 of the Maharashtra Schedule Caste, Schedule Tribes, Denotified Tribes (Vimukta Jati), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate), Act,2000 and if Caste Scrutiny Committee declares as invalid then that particular employee shall be

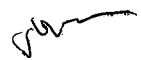


terminated immediately accordingly to the Section 11 of the said Act. It is further stated that the employees who were appointed under the reservation category before 15-06-1995 will also have to submit their Caste Certificate along with Caste Validity Certificate and if they failed to produce, they can be terminated. It is further stated that the applicant was given opportunity to produce the Certificate but he did not produce the same. The Judgment of the Hon'ble High Court is not applicable to the applicant.

8. The applicant has also filed Affidavit and has relied on some Judgments of this Tribunal vide in O.A.No. 208/2015, Writ Petition No.6584 of 2015 and some G.Rs.

9. The learned P.O. submits that the applicant in this case has been terminated by respondent no.2 vide order dated 26-04-2001 and the said order was never challenged by the applicant. Though the delay for filing O.A. has been condoned by this Tribunal, it will have to be seen as to whether the applicant has a case on merits or not. Mere condonation of delay will not entail the applicant to succeed in the O.A.

10. The learned counsel for the applicant has placed reliance on the Judgment delivered by Hon'ble High Court in case of **Arun s/o Vishwanath Sonone Vs. State of Maharashtra and Ors.,**



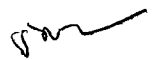
**reported in 2015 (1) Mh.L.J.,457.** In the said Judgment it has been observed by the Hon'ble High Court that the appointments or terminations were made upto 15-06-1995 in public employment on the basis of the Caste Certificates against a post reserved for any of the backward class categories, stand protected in terms of the G.Rs. dated 15-06-1995 and 30-06-2004 and shall not be disturbed, and the appointments that have become final between 15-06-1995 and 28-11-2000 shall remain unaffected in view of the decision of the Apex Court in Milind's case. The Hon'ble High Court however protection granted in terms of G.Rs. dated 15-06-1995 and 30-06-2004 and the decision in Milind's case, shall be subject to the following conditions;

*“(i) That upon verification by the Scrutiny Committee, the Caste Certificate produced to secure an appointment, is not found to be false or fraudulent, (ii) that the appointee shall not take any advantage in terms of the promotion or otherwise after 28-11-2000 solely on the basis of his claim as a candidate belonging to any of the backward class categories, in respect of which his claim is invalidated by the Scrutiny Committee, and (iii) that it shall be permissible for the Competent Authority to withdraw the benefits or promotions obtained after 28-11-2000 as a candidate belonging to backward class category for which the claim has been rejected. Any appointment that have become final against a post reserved for any of the categories of backward class on the basis of the production of Caste*



*Certificate without incorporating a specific condition in the order of appointment that it is subject to production of caste validity certificate after 28-11-2000 and before coming into force of the said Act on 18-10-2001 shall also remain protected subject to the conditions mentioned. After coming into force of the said Act on 18-10-2001, no benefit or appointment can be obtained or secured in any public employment against a post reserved for any of the backward class categories merely on the basis of the production of a caste certificate and without producing a caste validity certificate from the Scrutiny Committee. Such appointments are not protected and shall be liable to be cancelled immediately upon rejection of the caste claim by the Scrutiny Committee”.*

11. So far as present applicant is concerned, it is to be noted that the applicant came to be appointed vide order dated 30-09-2000 as a temporary employee subject to the conditions that he shall produce the Caste Validity Certificate within a period of six months from the date of appointment. Admittedly, the applicant has not produced the Caste Validity Certificate within six months and after giving full opportunity to produce such certificate, the applicant's services came to be terminated vide order dated 26-04-2001. The applicant never challenged the order of termination by filing the O.A. or Writ Petition and for the first time in this O.A. the applicant has challenged the said order of termination dated 26-04-2001 and



claiming for continuity in service. Admittedly, the applicant is not in service from the date of his termination, i.e., 26-04-2001.

12. The learned counsel for the applicant has placed reliance on the Judgment delivered by this Tribunal at Mumbai Bench of O.A.No.208/2015 on 06-04-2016 in the case of **Shri Bharat Dattatraya Golellu Vs. The Divisional Joint Director of Agriculture, Pune & Ors.**, wherein there is a reference of G.R. dated 04-03-2011. In para-5 of the said G.R. it was stated as under :-

“ ५. दिनांक ०४/०३/२०११ च्या शासन निर्णयान्वये तत्कालीन मा.मंत्री (महसूल) यांच्या अध्यक्षतेखाली गठित केलेल्या मंत्रीगटाचा अहवाल प्राप्त झाला आहे. सदर मंत्रीगटाच्या शिफारशीच्या अनुषंगाने कार्यवाही करण्याची बाब शासनाच्या विचाराधीन आहे. यास्तव तत्कालीन महसूल मंत्री यांच्या अध्यक्षतेखाली नेमलेल्या मंत्री गटाने सादर केलेल्या अहवालासंदर्भात शासनाचा पुढील निर्णय होईपर्यंत, दिनांक १५/०६/१९९५ नंतर दिनांक १७/१०/२००१ पर्यंत, या कालावधीत अनुसूचित जमातीच्या प्रमाणपत्राच्या आधारे शासन सेवेत नियुक्त झालेल्या ज्या कर्मचा-यांचे जात प्रमाणपत्र अवैध ठरले आहे किंवा ज्या कर्मचा-यांनी जात वैधता प्रमाणपत्र अद्यापपर्यंत सादर केलेले नाही, अशा कर्मचा-यांना शासन सेवेतून निलंबित करण्यात येऊ नये अथवा त्यांच्या सेवा समाप्त करण्यात येऊ नये.”

13. This G.R. has been issued after about 10 years after the applicant was terminated and therefore the said G.R. cannot be made applicable in the case of applicant. The applicant has also placed reliance on the Judgment delivered by Hon'ble High Court of Bombay Bench at Nagpur in W.P.No.6584/2015 in the case of **Vinod S/o Tukaram Shirshikar Vs. Union of India & Ors.**, wherein the aspect of obtaining certificate by playing fraud



has been considered. The facts of the said case are also not analogues with the present set of case.

14. From perusal of the record, we are therefore satisfied that in the present case the applicant is not in service since he was terminated on 26-04-2001. Full opportunity was given to him to produce the caste validity certificate. It was incumbent upon him to produce such caste certificate within six months from the date of order and admittedly the applicant failed to produce certificate. The applicant never challenged the order of termination and admittedly he is not in service. In such circumstances, no relief can be granted in favour of the applicant.

15. The applicant has filed Affidavit on 06-03-2017 and submitted that during the pendency of the O.A., the Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur has invalidated his caste certificate of "Halba" Scheduled Tribe vide order dated 05-06-2015. He stated that the Committee while invalidating caste has not recorded any finding in respect fraud or forgery. It is further stated that he belongs to caste "Kosti" which comes under Special Backward Category (SBC) and therefore his claim be considered. We are unable to accept this contention for the simple reason that these are the developments during the





pendency of the O.A. which has been filed in the year, 2016. The applicant's services came to be terminated long back in 2001 and he is not in service since 2001.

16. We, therefore, do not find any illegality in the order of termination of services dated 26-04-2001 issued by respondent no.2 considering the circumstances at the relevant time. In view thereof, we pass the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

sd/-

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

sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman (A).**

dnk.