

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 724 of 2011**

Bhaurao Vithoba Chaudhari,  
Aged 55 years, Occ. Service,  
As Police Inspector, R/o 94 Officer's Quarter,  
Police Headquarters, Katol Road, Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Additional Chief Secretary,  
Home Department, Mantralaya, Mumbai-32.
- 2) Director General of Police,  
Having its office near Regal Theatre,  
Kulaba, Mumbai.

**Respondents**

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**Shri S.P. Palshikar, N.S. Warulkar, Advocates for the applicant.**  
**Smt. M.A. Barabde, Id. C.P.O. for the respondents.**

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

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**JUDGEMENT**

**(Delivered on this 01<sup>st</sup> day of August, 2017)**

Heard Shri S.P.Palshikar, Id. counsel for the applicant and  
Smt. M.A. Barabde, Id. P.O. for the respondents.

2. The applicant was appointed as Police Sub Inspector through MPSC on 1/3/1983 as a Scheduled Tribe (S.T.) candidate. He was promoted as Assistant Police Inspector in April,2000 and

thereafter deemed date of promotion was granted to him w.e.f. 2/9/1998.

3. In 1983, the caste validity of the applicant was invalidated. The applicant, therefore, filed O.A. No. 626/2003 in which directions were given on 21/1/2014. Vide order dated 7/7/2004 deemed date as API was granted to the applicant from 2/9/1998.

4. The applicant submitted representations on 16/8/2004, 16/5/2005 and 27/9/2005, but his representations were not considered and finally vide impugned orders dated 10/02/2011 & 28/03/2011 his claim was rejected. The applicant has therefore filed this O.A. the applicant has claimed that the impugned orders dated 10/2/2011 (Annex-A-1) and 28/03/2011 (Annex-A-2) issued by respondent no.2 be quashed and set aside and the respondents be directed to consider grant of deemed date of promotion as API from SBC category as on 2/9/1998 and grant further promotion as PI and Dy. S.P. on the basis of such promotion on 2/9/1998 from SBC category and the gradation list dated 1/1/2010 accordingly be corrected.

5. The sum and substance of the O.A. is that since the applicant's caste claim has been invalidated and he has been treated as belonging to SBC category, he shall be considered from SBC

category throughout though he has been appointed under reservation category of S.T.

6. The respondent no.2 filed reply-affidavit and submitted that claim of the applicant is not tenable. According to the respondents, the applicant's claim that he was belonging to S.T. category has been invalidated by the competent committee and now he has been considered to belongs to SBC category and therefore he cannot claim benefits of SBC category from the date of initial date of appointment. The applicant's seniority has been re-fixed as per the G.R. dated 24/06/2004. The respondents tried to justify the said action.

7. Perusal of the impugned orders dated 10/2/2011 and 28/03/2011 show that the respondents have taken into consideration the contents of the G.R. dated 30/6/2004. The order dated 10/2/2011 is self speaking and it reads as under :-

*^ i ksyh mi fujh{kcd Hkkmjko foBkck pkskjh %l /; k i ksyhl fujh{kcd% ; kph mi jkDr 'kk l u fu.kz I kekl; iz kkl u foHkx dz chl hl h 2002@ izdz93@04@16&c] fnukad 30@06@2004 e/khy rjrphud kj i ksyhl mi fujh{kcd inkrhy eG I oktsBrk fnukad 15@06@1995 i kl u yko.ksdz i ktr Bjrs R; keGsi ksyhl mi fujh{kcd Hkkmjko foBkck pkskjh ; kph i ksyhl mi fujh{kcd inkrhy I ok t'sBrk fnukad 15@6@1995 P; k cpe/khy %i whiph cpe fnukad 01@03@1983% i ksyhl mi fujh{kcd egknw j?kukfk f'kms%v-dz5040&d% ; kpsyxksyx [kkyh o fnukad*

16@06@1986 P; k c#e/khy i kyhl mifujh{k d l i r j [kekth e#s ¼v-dz  
5041 v½; kpsyxkyx oj fuf'pr dj.; kr ; r vkgs\*\*

8. In view of the aforesaid order dated 10/2/2011, the seniority of the applicant has been re-fixed as per order dated 28/3/2011.

9. It is material to note that the applicant entered the service as a candidate belonging to S.T. category and in view of the decision of the Government as well as various decisions by this Tribunal as well as Hon'ble High Court and Hon'ble Supreme Court the services of the applicant seems to have been protected, even though his caste claim was invalidated. As per the G.R. dated 30/06/2004 the candidate whose caste claim is invalidated is entitled to be protected in service, but not in the category of S.T. In view of this, the applicant was treated as candidate belonging to SBC and the date on which his caste claim was considered from the category of SBC he has been treated as holding the post in SBC category.

10. Perusal of the impugned orders clearly show that the G.Rs. and all provisions have been rightly considered by the competent authority and even though the applicant should have been dismissed from the service since his caste claim was invalidated, his service have been protected but in SBC category. The action taken

by the respondents therefore cannot be said to be illegal or arbitrary. The Caste Scrutiny Committee has examined the case of the applicant on 17/2/2004 and has declared him as belonging to SBC instead S.T. and therefore there is no justification for the applicant to claim deemed date of promotion on the basis of his caste, i.e., SBC and therefore I am satisfied that there is no illegality in the impugned orders issued by respondent no.2. The Hon'ble Supreme Court has recently considered all the cases concerning caste invalidation of the candidates in the case of **Chairman and Managing Director, Food Corporation of India and others V/s Jagdish Balaram Bahira and others with number of C.As in Civil Appeal No. 8926/2015**. The judgment is delivered in the said case on 6.7.2017.

11. In para No.57 of the aforesaid judgment, the Hon'ble Supreme Court has drawn conclusion as under:-

**“57. For these reasons we hold and declare that,**

- (i) The directions which were issued by the Constitution Bench of this Court in paragraph 38 of the decision in **Milind** were in pursuance of the powers vested in this Court under Article 142 of the Constitution.
- (ii) Since the decision of this Court in **Madhuri Patil** which was rendered on 2<sup>nd</sup> September

1994, the regime which held the field in pursuance of those directions envisaged a detailed procedure for (a) the issuance of caste certificate, (b) scrutiny and verification of caste and tribe claims by Scrutiny Committees to be constituted by the State Government, (c) the procedure for the conduct of investigation into the authenticity of the claim, (d) cancellation and confiscation of the caste certificate where the claim is found to be false or not genuine, (e) withdrawal of benefits in terms of termination of an appointment, cancellation of an admission to an educational institution or disqualification from an electoral office obtained on the basis that the candidate belongs to a reserved category, and (f) prosecution for a criminal offence.

- (iii) The decisions of this Court in **R. Vishwanatha Pillai** and in **Dattatray** which were rendered by benches of three Judges laid down the principle of law that where a benefit is secured by an individual—such an appointment to a post or admission to an educational institution-- on the basis that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered *void or non est*.

(iv) The exception to the above doctrine was in those cases where this Court exercised its power under Article 142 of the Constitution to render complete justice.”

12. Hence, the following order :-

**ORDER**

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

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

dnk.