

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 166 of 2011 (D.B.)

Mohan Arvind Chitare,
Aged about 33 years, Occ. Craft Instructor,
Government Industrial Training Institute,
Buldana, Tq. & Dist. Buldana.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary,
Ministry of Vocational Education & Training,
Mantralaya, Mumbai-32.
- 2) Deputy Director of Vocational Education
and Training, Amravati Region, Amravati.
- 3) Principal,
Government Industrial Training Institute,
Buldana, Tq. & Dist. Buldana.

Respondents.

S/Shri R.L. Khapre, S.A. Mohta, Advocates for the applicant.
Shri P.N. Warjurkar, learned P.O. for respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J) and
Hon'ble Shri Shree Bhagwan, Member(A).**

ORAL ORDER

PER : V.C.(J).

(Passed on this 26th day of September,2018)

Heard Shri R.L. Khapre, learned counsel for the
applicants and Shri P.N. Warjurkar, learned P.O. for the respondents.

2. From the facts on record it seems that the applicant was initially appointed on the post of Craft Instructor (Electrician/Wireman) and he was recommended through Employment Exchange. It is the case of the applicant that, that was a solitary post where no reservation was provided though the applicant belongs to Scheduled Tribe (ST) (Chatri) Category. He applied from Open category and continued to work on the said post of number of years. Ultimately, vide G.R. dated 08/03/1999 the Government decided to regularise the services of the employees like applicant and the regularisation order was accordingly issued as per the letter dated 09/05/2000. As many as 127 employees were regularised in which the applicant's stand at sr.no.96 and he was appointed in the pay scale of Rs.5000-8000/- as a Craft Instructor (Wireman). His services were regularised w.e.f. 13/12/1999. The applicant has placed on record number of appointment orders which nowhere states that he was appointed under particular caste. For the first time vide letter dated 04/02/2002 the applicant was asked to produce caste validity certificate. The applicant gave explanation making it clear that he never applied from particular caste and never obtained benefits of caste under reservation policy. It was his claim that he applied from the Open Category. After receiving the explanation, instead of accepting the explanation, the department initiated the departmental

inquiry against the applicant as per the charge sheet at P.B. page no.71 wherein two charges were framed against the applicant.

^tMli=&2

Jh- ekgu vjfoa fprkj; f'kvi funskd ¼rkjra-h½ vksizl &Fkk] nmGxkø jktk ; kpsfo#/#n r; kj dj.; kr vky; knkMjisk I ælhpsoLr' foaj.ki = &

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rl p R; kps ue.kad vks'kke/; svhi e/; svki yh ue.kad gh eG iæ.ki = j 'kqf.kd vgrk o brj clch riki .kps vf/ku jkgu dj.; kr ; r vksø tkrhps iæ.ki = o vuqko bR; khrps eG iæ.ki = so R; kR; k nku I R; irh I &Fkk iæ[kkdMs #twgskauk n; kO; kr vl k Li "V mYys[k vks

I æ/kr inkojhy rRi jr' fu; qrrh kBh Jh- fprkjs; kph iFke eyk [kr fnukad 10@11@1996 jksth >kyh- eyk [kr ?kskk&; k buVjfgo iWyy fji kVZ e/; s I qnk Jh- elsv- fprkjs; kph tkr ^N=h ¼vuq tpr tekhr½ vl Y; kpk Li "V mYys[k vks ; kpkp vFkZvl k dh- Jh- fprkjs; kph ue.kad vuq tekhr ; k oxbkjh e/; s >kyh vksø R; kpk nok dj.; kI kBhp R; kauh tkrhps iæ.ki = I knj dsysvks oGkoGh inf'kr >ky; k tsBrk I phe/; s I qnk R; kph oxbkjh vuq tpr tekhr vl Y; kph fl rs*

'kkl ukP; k vks'kkud kj tkrhoxz I ælhpso tkrhps iæ.ki = kph oSkrrk riki .kh dj.ks vko'; d vks; k vuqkxkus Jh- fprkjs; kauk I qnk oGkoGh tkrP; k iæ.ki = kph oSkrrk riki .khl kBh i kBo.; kI kBh vko'; d dlxni = sdk; ky; kI I knj dj.kckcr I tpr dsysvks ; k vuqkxkus Jh- fprkjs; kauh R; kpsfnukad 07@04@2001 P; k fuosukOkjs tkrh iæ.ki = kP; k oSkrrk riki .kh dfjrk , dqk 13 I æ/kr dlxni = kR; k >jkM I irh I knj dY; k gkR; k- i jrww

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 vkg; ; kpk vFkZ vl k dh] rs vuq tekrhP; k oxđkjhpok nok djrkr] i jarq R; kauh fnukad
 05@03@2002 P; k i kpk;] vksizl ūFkk] nmGxkđjktk ; kpsukosoŝkrk riki .khl kBh dKxni =s
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; kpkp vFkZR; kauh dk; kzy; kl I knj dsyys tkrhps iæk.ki = gs [kks/s ¼voŝk½
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 feGfo.; k dfjrk dsyk vkg;

; kOnkjsR; kauh e-uk- I ōk ¼orZkud½ fu; e]1979 e/khy fu; e&3] i k/fu; e&1
 e/khy ¼, d½ ¼nksu½ o ¼rhu½ pk Hkax dsyk vkg;

clc delad 2 & tkrhP; k [kks/; k iæk.ki =kp; k vlf.k dFkukpk grq%oki j dj.ksjh- fprkjs; kauh
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 o udkj fnyk ; kpkp vFkZ vl k dh] R; kauh tkrhP; k nkO; kl kBh I knj dsyys tkrhps iæk.ki =
 [kks/s o voŝk vkg; Jh- fprkjs ; kauh ; k [kks/; k iæk.ki =kpk oki j 'kkl dh; I ōr i oŝk
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 vuq tekrh ; k I oxkđr kBh vuqk; vl yŝ; k I oZl oyrh o Ok; nsfeGfo.; kl kBh tk.kho i ōZd
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R; kauh 11@10@1996 e/; s>kyŝ; k rkrigR; k ue.kpdl kBh i Fke eyk [krhr
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 fu; fer I ōr vksizl ūFkk] nmGxkđjktk ; Fks#twgks-kauk ^N=h* vuq tekrhps [kks/s iæk.ki =
 I knj dsy R; kpsl ōki ūrdkr I ūnk R; kauh ^N=h* vuq tekrh v'kh ukn djou ?kr-yh ; kuarj
 oGkoGh inf'kđr dj.; kr vkyŝ; k tŝBrk I ppe/; sR; kph oxđkjh vuw tekrh gkrh R; kauh
 ; kl gh flodrh nou vki .k vuq tekrhps vkg vl s [kks/s dFku d#u vkj {k.kkps Ok; ns
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; kOnkjsJh- fprkjs; kauh tkrhps [kkvsi æk.ki = o dFkukpk gsr-% vkj {k. kksOlk; ns feGfo.; kdfjrk okij d#u 'kkI ukph QI o.knd dsyh vkgs [kkvsnLr, ot nouu o urj eh [kk; k i dxkpk vkgsvl sEg.kuu 'kkI ukph fn'kkHny dsyh-

; kOnkjsR; kauh e-uk- I ok ¼orZkud½ fu; e]1979 e/khy fu; e&3] i kv/fu; e&1 e/khy ¼, d½¼nku½ o ¼rhu½ pk Hkx dsyk-

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i kns'kd dk; kÿ;] vejkorh-**

3. After due inquiry the Inquiry Officer came to the conclusion that the applicant has not committed any misconduct and finally the inquiry was dropped as per letter dated 11/08/2006 at P.B. page no.84.

4. Suddenly vide letter dated 11/03/2011 the applicant was served a show cause notice. The said show cause notice has been impugned in this O.A. which is at P.B. page nos. 89 & 90 (both inclusive) at Annex-A-32. The applicant has been asked to explain as to why he shall not be removed from the service immediately since he has obtained the service on the pretext that he belongs to S.T. (Chatri) Caste. The relevant show cause notice is as under :-

^^ vki yh fu; Þrh gh vuq fpr tekrtP; k i dxkzhy vkjf{kr tkxoj >kyh vl Y; kus jkt i = es23]2001 e/khy dye 8 vUo; svki .kkd tkr oßkrk i æk.ki = ; k dk; kÿ; kl I knj dj .kscdkudkj d vkgs ; k dk; kÿ; kusoGkoGh dsyY; k i =@i fji =dkUo; srl p I mhkZdz8 o 9 vUo; s; ki mhlI fpr d#u I qnk v?kki gh vki .k tkr oßkrk i æk.ki = I knj dsyysukgh-

vki yh fu; Drh gh fnukad 13@12@1999 jksthph Eg.ktp fnukad 15 tuw]1995
 urjph vl Y; kus 'kkl u fu.kz kud kj 15 tuw]1995 i phz fu; Dr >ky; k dephk; ki ek.ks
 vki ys l or l j{k.k vuks Bjr ukgh- R; keGs vki.k 'kkl u l or T; k tkrh@ tekrhps
 i ek.ki=kP; k vk/kj;svud qpr tekrhP; k vkj{kr inkoj 'kkl u l or i osk feGoyk vkgR; k
 tkrh@ tekrhpsoskrk i ek.ki = l knj dj.kscakudkj d vl rkaugh oskrk i ek.ki = vtqi ; r
 vki .kkdMu ; k dk; kzy; kl l knj u dj.; kr vkY; keGsvki .k 'kkl u l or u rkrdkG l okeDr
 dj.; kP; k dk; bkg h i k= Bjr vkgkr-

rkgk vki .k vuq qpr tekrhps tkr oskrk i ek.ki = l knj u dY; keGsvki .kkd 'kkl u
 l or u dka dk.; kr ; suu; s? ; kpk l ek/kkudkj d [kykl k gh ukvhl feGKY; ki kl u 10
 fno l kb; k vkr l l Fkk i ek[kkekQr ; k dk; kzy; kl l knj djkok- [kykl k l knj u dY; kl
 vki .kkd ; k ckr dkghgh Eg.kko; kps ukgh vl s xghr /k#u vki .kkd 'kkl u l or u dk<u
 Vkd.; kckcr vko'; d rh i qhy dk; bkg h dj.; kr ; bzy o ; kckcr vki .kp l oLoh tckcnkj
 jkgky g; kph ukn ?; koh**

5. The learned counsel for the applicant has invited our attention to the letter dated 11/08/2006 which is at P.B. page no. 80 at Annex-A-30. Vide said letter it has been intimated as under :-

^^ mi jkDr l mHkkzdr i=kps vuqkxkus vki .kkd dGfo.; kr ; rs dh] Jh-, e-, -fprkjg
 f'KYi funskd ¼rkjra=h½ vksizl l Fkk] nmGxkwd jktk] ft- cgy<k.kk ; kb; k fo#/#npl f'kLrHkx
 fo"k; d plsd'kpk vgo ky i ktr >kysk vl u nkskkjki fl /n >kysul Y; kpsdGfo.; kr vkys
 vkgS**

6. Along with the additional affidavit the applicant has placed on record the report of the Inquiry Officer which is at P.B. page nos.148 to 157 (both inclusive). From the said inquiry report also it is clear that the applicant has not produced any false certificate nor pretended himself to be belonging to S.T. (Chatri) Caste while obtaining service and the said report has been accepted by the

Appointing Authority. Had it been a fact that the Appointing Authority was not satisfied with the report of the Inquiry Officer, it was open for him to disagree by mentioning the reasons for such disagreement and thereafter serving the report of disagreement to the applicant along with show cause notice. Instead of following the said procedure as per the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, the respondent seems to have decided to initiate fresh inquiry, that too by issuing a show cause notice dated 11/03/2011. The applicant has been exonerated from earlier inquiry on 11/08/2006 and all of a sudden now show cause notice has been issued on 11/03/2011 on the same allegations. Such a novel practice cannot be allowed. The show cause notice dated 11/03/2011 therefore is absolutely illegal. No reason has been mentioned in the show cause notice as to how the Appointing Authority again come to the conclusion that the applicant has obtained the service under particular caste on false pretext. There is nothing on the record to show that the applicant was appointed under S.T. category and therefore there was no reason for applicant to produce a caste validity certificate and time and again he has requested the Authority that he be considered from the Open category. This can be seen from his letter dated 05/03/2002 at P.B. page no. 63 which is forwarded to the Deputy Director of Vocational Education and Training, Amravati by the competent authority so also from letter

dated 22/11/2004 at P.B. page no.66 wherein the applicant has clearly stated he be considered from Open category.

7. On a conspectus of discussions in forgoing paras, we are of the view that the show cause notice dated 11/03/2011 is illegal. Hence, the following order :-

ORDER

The O.A. is allowed in terms of prayer clause no. (10.1) with no order as to costs.

**(Shree Bhagwan)
Member(A).**

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

Dated :- 26/09/2018.

dnk.