

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 903/2019(D.B.)**

Rajendra Namdeorao Rane,  
Aged about 57 yrs. Occ. Service,  
R/o Prashant Nagar, Vanraj Marg,  
Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through the Secretary,  
Department of Co-operation,  
Mantralaya, Mumbai 32.
- 2) Commissioner Co-operative and Registrar  
Co-operative Societies, Maharashtra State,  
Main Administrative Building, Pune.
- 3) Divisional Joint Registrar,  
Co-operative Societies, Amravati.

**Respondents**

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Shri R.V.Shiralkar, Ld. Counsel for the applicant.  
Shri A.M.Ghogre, Ld. P.O. for the respondents.

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

**Dated: - 21<sup>st</sup> December 2022.**

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**JUDGMENT**

**Per :Member (J).**

**Judgment is reserved on 24<sup>th</sup> November, 2022.**

**Judgment is pronounced on 21<sup>st</sup> December 2022.**

Heard Shri R.V.Shiralkar, learned counsel for the applicant and Shri A.M.Ghogre, learned P.O. for the respondents.

2. Case of the applicant is as follows.

The applicant joined the respondent department on 01.07.1996 as Assistant Co-operative Officer. He had submitted a certificate of Mahadeo Koli caste which is a Scheduled Tribe. It was invalidated by the Caste Scrutiny Committee. Faced with the prospect of losing his job, the applicant filed W.P.No.3441/2014. It was decided by the Judgment dated 06.01.2015 (Annexure A-2). Operative part of the Judgment reads as under—

- (a) The petitioner is entitled for protection of service, however, not entitled for any further caste benefits on the basis of invalidated caste certificate, except a continuity of service.***
- (b) The privileges / benefits granted after 28.11.2000 on the basis of the earlier caste certificate that he belongs to 'Mahadeo Koli' Scheduled Tribe, the respondent/employer are at liberty to withdraw the said benefit / privilege and may restore the position as on 28.11.2000 depending upon the written service agreement.***
- (c) The petitioner to submit a fresh caste certificate to complete the formality of service record, at earliest,***

***preferably within a period of nine months. Both the parties to cooperate accordingly. Parties to do the needful within a period of two months from the date of receipt of copy of this order for the same.***

Thereafter, the applicant submitted a certificate of caste Koli which falls in Special Backward Class. As per G.Rs. dated 08.06.1995 and 05.07.2010 (Annexures A-3 and A-4, respectively) he was entitled to get time bound promotion after completing 12 years of service on 22.07.2008. He made representations dated 13.02.2017 and 21.04.2017 to respondents 2 and 3 (Annexures A-5 and A-6, respectively). By order dated 28.02.2018 (Annexure A-7) respondent no.3 rejected his claim by observing as follows-

महाराष्ट्र शासन वित्त विभाग शासन निर्णय क्रमांक वेतन ११९९/प्र.क.  
-२/९९ सेवा - ३ दिनांक २० जुलै २००९ मध्ये कालबद्ध पदोन्नती संबंधी देण्यात  
खालीलप्रमाणे निकष देण्यात आलेले आहे.

१. या योजनेच्या लाभ संबंधीत पदावरील १२ वर्षांच्या नियमित सेवेनंतर अनुज्ञेय होईल.
२. या योजनेतर्गत पदोन्नतीच्या पदाची वेतनश्रेणी देय ठरलेली असल्याने वरीष्ठ वेतन श्रेणी मिळण्यासाठी पदोन्नतीच्या पदाकरिता विहित केलेली अर्हता पात्रता जेष्ठता, अर्हता परीक्षा विभागीय परीक्षा, व मागासवर्गीय असल्यास जात वैधता प्रमाणपत्र या सर्व बाबींची पूर्तता करणे तसेच पदोन्नतीची कार्यपध्दती अनुसरणे आवश्यक राहिल.

आपण मागासवर्गीय असल्याने आपणाजवळ अ.ज. या जमातीचे जातवैधता प्रमाणपत्र नसल्यामुळे आपणांस कालबध्द पदोन्नतीचा लाभ देता येणार नाही, असे या कार्यालयाचे मत असून या संबंधात आपण सक्षम न्यायालयात दाद मागू शकता.

Being aggrieved by the order dated 28.02.2018 the applicant preferred appeal (Annexure A-8) before respondent no.2 in which he *inter alia* stated –

माझ्या धारणेनुसार मी मा.उच्च न्यायालय, खंडपीठ नागपूर यांचे दिनांक ०६/०१/२०१५ चे निर्णयानुसार मुदतीच्या आंत कोळी (एस.बी.सी.) जात प्रमाणपत्र व त्या जातीचे जात वैधता प्रमाणपत्र मा.विभागीय सहनिबंधक सहकारी संस्था अमरावती कार्यालयात सादर केले. त्यामुळे अ.ज.जातीचे प्रमाणपत्र नसल्यामुळे कालबध्द पदोन्नती देता येणार नाही हे कारण संयुक्तीक वाटत नाही.

तसेच आश्वासीत प्रगती योजने अंतर्गत असलेल्या शासन निर्णयात पदोन्नतीची संधी नसलेल्या तसेच एकाकी पदावरील कर्मचा-यांना कालबध्द पदोन्नती लागू राहिल मात्र रोजंदारी कंत्राटी व तदर्थ (एडी )नियुक्त करण्यात आलेल्या कर्मचा-यांना लाभ अनुज्ञेय असणार नाही असे नमुद आहे. त्यानुसार मी.....

१. माझी सेवा २२ वर्षांपासून अखंड सुरु आहे.
२. गोपनिय अहवालाची प्रतवारी , ब पेक्षा अधिक आहे.
३. माझ्या विरुध्द खाते चौकशी सुरु नाही.
४. माझी रोजंदारी, कंत्राटी, तदर्थ नियुक्ती नाही.
५. शासन निर्णयानुसार मत्ता व दायित्व सादर केले आहे.
६. एस.बी.सी. कोळी जातीचे जात वैधता प्रमाणपत्र सादर केले आहे.
७. नेमणुकीच्या आदेशातील अटी शर्तीचे पालन केले आहे.

Respondent no.2 did not decide the appeal. Hence, this O.A..

3. In his reply at pp.38 to 47 respondent no.3 has averred as follows.

It is a matter of record that the applicant has submitted a Caste Certificate of Koli which falls in Special Backward Class category. The G.Rs. on which the applicant wants to rely cannot be pressed into service by him since his caste claim was invalidated and only protection given to him by the Hon'ble High Court was of continuation of service. It was communicated to the applicant by letter dated 31.07.2019 that his appeal could not be entertained. On 21.12.2019 circular was issued by the Government of Maharashtra pursuant to which the applicant was appointed on a supernumerary post. He accepted such appointment without demur. While granting limited protection of continuation in service by judgment dated 06.01.2015 (Annexure A-2) the High Court did not direct grant of any consequential relief. For all these reasons the O.A. deserves to be dismissed.

4. It is a matter of record that the present applicant had filed O.A.No.225/2020 before this Bench claiming following reliefs-

***A. Hold and declare that the applicant is entitled for regular pension and pensionary benefits like G.I.S., G.P.F., Leave encashment, Commutation of pension etc. alongwith interest and consequently;***

***B. Direct the respondents immediately to start regular pension and pay the applicant all pensionary benefits alongwith interest.***

***C. Quash and set aside order dated 28.12.2019 passed by the respondent no.3 being illegal, arbitrary and without jurisdiction.***

It may be stated that by order dated 28.12.2019 which was impugned in O.A.No.225/2020, the applicant was appointed on a supernumerary post. This order stated-

ज्याअर्थी, श्री.आर.एन.राणे, सहाय्यक सहकार अधिकारी अंतर्गत सहकार अधिकारी श्रेणी -9 सहकारी संस्था, चिखलदरा संलग्न सहाय्यक निबंधक सहकारी संस्था, अचलपुर यांच्या सेवा शासन निर्णय क्र.बीसीसी २०१५/प्र.क.३०८/१६-ब, दि.२९ डिसेंबर २०१९ अनुसार या आदेशाच्या दिनांकापासून अधिसंख्य पदावर वर्ग करण्यात येत आहे.

This Tribunal, by judgment and order dated 25.06.2021 allowed O.A.No.225/2020 in terms of Prayer Clauses A, B and C. While allowing said O.A. the Tribunal relied on the common judgment dated 04.05.2021 passed by the Hon'ble Bombay High Court in W.P.Nos.903, 1484 and 9032 of 2020 wherein it is held –

***26. In the light of the above, the Government Resolution dated 21<sup>st</sup> December, 2019 shall be read in a manner not to include the employees whose tribe claims are***

***invalidated, but are granted protection in employment under the judgments/orders of this Court and the said judgments/orders have attained finality.***

5. A conjoint consideration of order dated 06.01.2015 (Annexure A-2) and the judgment and order dated 25.06.2021 passed by this Bench in O.A.No.225/2020 shows that there is no substance in any of the grounds on which legitimate claim of the applicant is sought to be defeated by the respondents. It may be reiterated that the order dated 06.01.2015 placed an embargo on extending further caste benefits on the basis of invalidated caste certificate, except continuity of service. It is admitted by the respondents that the applicant has furnished a certificate of his caste i.e. Koli which falls in Special Backward Class category.

6. For the reasons discussed hereinabove we hold that the applicant is entitled to time bound promotion w.e.f. 22.07.2008 with all consequential benefits if he is found to satisfy other criteria. If it is found that the applicant is to be extended such benefit, it shall be extended within 2 months from today. No order as to costs.

(M.A.Lovekar)  
Member (J)

(Shree Bhagwan)  
Vice Chairman

Dated – 21/12/2022

O.A.No.903/2019

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

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Vice Chairman &  
Court of Hon'ble Member (J) .  
Judgment signed on : 21/12/2022.  
and pronounced on  
Uploaded on : 22/12/2022.