

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NOS.293 & 294 OF 2018**

**DISTRICT : SOLAPUR**

\*\*\*\*\*

**ORIGINAL APPLICATION NO.293 OF 2018**

Shri Umakant S. Gawandi. )  
Age : 65 Yrs., Retired as Assistant )  
Sub-Inspector, residing at House No.163, )  
Samarth Society, Vijapur Road, )  
Solapur – 413 008. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Addl. Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 400 032. )
2. The Special Inspector General of )  
Police, Pune Range, State Reserve )  
Police Force, Pune Gr-1, Ramtekadi, )  
Pune – 411 022. )
3. The Commandant. )  
SRPF Group No.10, Solapur, )  
Soregaon Camp, Solapur – 411 022. )...**Respondents**

**AND**

**ORIGINAL APPLICATION NO.294 OF 2018**

Shri Janardhan D. Kshirsagar. )  
Age : 64 Yrs., Retired as Assistant )  
Sub-Inspector, residing at Vishnu Nagar, )

Near SRP Camp, Vijapur Road, )  
Solapur – 413 008. )...**Applicant**

**Versus**

1. The State of Maharashtra & 2 Ors. )...**Respondents**

**Mrs. Punam Mahajan, Advocate for Applicants.**

**Mr. A.J. Chougule, Presenting Officer for Respondents.**

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J**

**DATE : 29.01.2021**

**JUDGMENT**

1. In these Original Applications, the Applicants have challenged the order dated 01.11.2017 whereby the benefit of 2<sup>nd</sup> Time Bound Promotion was denied on the ground that Caste Validity Certificate produced by them was not of the period before their retirement from service.

2. In so far as O.A.293/2018 is concerned, the Applicant stands retired on 31.05.2011. Before his retirement, second benefit of Time Bound Promotion (TBP) was due on 01.08.2008, but the same was not extended to him. After retirement, he made representation on 27.08.2012 requesting Respondent No.2 for grant of benefit of 2<sup>nd</sup> TBP w.e.f.01.08.2008 since he had completed 12 years' service on that date. He was asked by letter dated 10.07.2013 to submit Caste Validity Certificate as required in terms of G.R. dated 08.06.2011. Accordingly, he obtained Caste Validity Certificate on 06.12.2014 and submitted to Respondent No.2. However, Respondent rejected his claim by order dated 01.11.2017 stating that Caste Validity Certificate should have been

of the period prior to date of retirement, which is under challenge in this O.A.

3. As regard O.A.294/2018, the facts are similar with slight difference in dates. In this O.A, the Applicant stands retired on 31.05.2012. After retirement, he made representation on 27.08.2012 that the benefit of 2<sup>nd</sup> TBP was due on 17.01.2010 and requested to release the same. He was asked by letter dated 10.07.2013 to produce Caste Validity Certificate in terms of G.R. dated 08.06.2011. Accordingly, he obtained Caste Validity Certificate from Caste Scrutiny Committee No.1, Solapur on 04.10.2013 and submitted to Respondents. However, his claim was rejected by order dated 01.11.2017 on the ground that Caste Validity Certificate should have been of the period prior to date of retirement, which he had challenged in the present O.A.

4. Smt. Punam Mahajan, learned Advocate for the Applicants sought to assail the impugned communication contending that once Caste Validity Certificate is issued, it relate back to the date of employment, and therefore, the ground taken by the Respondents that Caste Validity Certificate should have been of the period prior to retirement is absurd and unsustainable. She has also pointed out that in the matter of others, the Respondents have granted the benefit of TBP even after retirement, but Applicant is subjected to discrimination.

5. Per contra, Shri A.J. Chougule, learned Presenting Officer made feeble attempt to justify the impugned order stating that in terms of G.R. dated 08.06.2011, the Caste Validity Certificate was essential and the same being produced subsequent of retirement, it was not accepted.

6. At the very outset, material to note that in the present O.As, the Applicants are seeking the benefit of 2<sup>nd</sup> TBP and prior to it, they already got actual promotion on the post of Hawaldar. In so far as G.R. dated 08.06.2011 (Page No.14 of P.B.) is concerned, it states that in case of promotion to the candidate belonging to Backward Class, it should not

be given in absence of production of Caste Validity Certificate. As the Applicants are claiming the benefit of 2<sup>nd</sup> TBP (non-functional promotion), the G.R. dated 08.06.2011 would apply and production of Caste Validity Certificate was necessary for 2<sup>nd</sup> benefit of TBP.

7. The Applicants were due for benefit of 2<sup>nd</sup> TBP on 01.08.2008 and 17.01.2010 respectively. Thus, they were entitled for the benefit of 2<sup>nd</sup> TBP much before their retirement and this being the position, in fact, the Respondents ought to have asked for production of Caste Validity Certificate, when they were due for the benefit of 2<sup>nd</sup> TBP in 2008 and 2010 respectively. However, the Respondents did not take any steps in this behalf. Eventually, the Applicants stand retired on 31.05.2011 and 31.05.2012 respectively without getting 2<sup>nd</sup> benefit of TBP. Even after retirement, they made application and later also produced Caste Validity Certificate as demanded by the Respondents. However, the benefit has been refused on the sole ground that Caste Validity Certificate should be of the period prior to the date of retirement.

8. In view of above, the small issue posed for consideration is whether the ground mentioned in the impugned order that Caste Validity Certificate should have been for the period before retirement is sustainable and the answer is in emphatic negative.

9. Since the Applicants retired on 31.05.2011 and 31.05.2012, it is after retirement only they had applied for Caste Validity Certificate as asked and accordingly Caste Scrutiny Committee had issued the Certificates on 08.06.2011 and 04.10.2013 respectively. As per required procedure, the Committee scrutinized Caste Certificate of the Applicant, the family members, etc. and then issued Caste Validity Certificate. As such, once caste is validated, it relates back with a declaration that the Applicants' caste is validated as 'Other Backward Class'. In another words, once this declaration is given by the competent authority, it has effect of validity of caste of the Applicant as OBC. Therefore, it is absurd

to ask the Applicants to obtain Caste Validity Certificate of the period prior to their retirement. It rather shows non-application of mind.

10. The Respondents could not point out any Rule or law or G.R. in support of their contention that Caste Validity Certificate should have been of the period prior to retirement. Indeed, there is inaction on the part of Respondents to take necessary steps in this behalf when Applicants were due for the benefit of 2<sup>nd</sup> TBP while in service. Had Respondents asked for Caste Validity Certificate that time, the Applicant would have produced the same before their retirement. Be that as it may, the reason stated in the impugned order that Caste Validity Certificate should be of the date prior to the date of retirement is totally absurd and erroneous. It defies logic and is totally irrational.

11. Apart, as rightly pointed out by the learned Advocate for the Applicant that in the matter of counter-parts of the Applicants, in case of Shri Shivdas S. Salunkhe and Shri Maruti N. Gaikwad, though they have submitted Caste Validity Certificate after their retirement, they were given the benefit of 2<sup>nd</sup> TBP as explicit from the record. However, the Applicants were given different treatment and subjected to discrimination, which is violative of Article 14 of the Constitution.

12. For the aforesaid reason, I have no hesitation to conclude that the impugned order is totally indefensible and unsustainable in law. The Respondents ought to have granted the benefit of 2<sup>nd</sup> TBP on the basis of Caste Validity Certificate produced by the Applicants. Hence, I proceed to pass the following order.

### **ORDER**

- (A) Both Original Applications are allowed.
- (B) The impugned orders dated 01.11.2017 are quashed and set aside.

- (C) The Respondents are directed to release the monetary benefit of 2<sup>nd</sup> Time Bound Promotion to the Applicants with other consequential benefits in accordance to Rules within two months from today.
- (D) No order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**Member-J**

Mumbai

Date : 29.01.2021

Dictation taken by :

S.K. Wamanse.

D:\SANJAY WAMANSE\JUDGMENTS\2021\January, 2021\O.As.293 & 294.18.w.1.2021.Time Bound Promotion.doc

Uploaded on