

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI
BENCH AT AURANGABAD.

DIST. AHMEDNAGAR.

ORIGINAL APPLICATION NO. 212/2016.

(Subject : Termination)

Shri Prashant Sakharam Patole,
Age 30 years, Occ. Service as Clerk,
R/o c/o Tahsil office, Karjat,
Tq. Karjat, District Ahmednagar.

-- APPLICANT

VERSUS

1. The Principal Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai.
2. The Collector (Revenue),
Collector Office, Ahmednagar.
3. The Tahsildar,
Tahsil Office Karjat, Tq. Karjat,
District Ahmednagar.

-- RESPONDENTS.

APPEARANCE : Shri VB Wagh, learned Advocate for
the Applicant.

: Shri VR Bhumkar, Learned Presenting
Officer for the Respondents.

CORAM : **Hon'ble Shri Rajiv Agarwal, Vice Chairman(A)**
&
: Hon'ble Shri JD Kulkarni, Member (J).

DATE : 21.10.2016.

ORDER.

(Per: Hon'ble Shri Rajiv Agarwal, Vice Chairman (A))

1. Heard Shri VB Wagh, learned Advocate for the Applicant and Shri VR Bhumkar, learned Presiding Officer for the Respondents.
2. The Applicant is challenging the order dated 20.11.2015, issued by the Collector, Ahmednagar, terminating his services for failure to produce Caste Validity Certificate and order dated 1.3.2016 rejecting his representation for taking him back in service.
3. Learned Counsel for the Applicant argued that the Applicant was appointed as Jr. Clerk on 15.6.2006 from Scheduled Caste (S.C.) category on compassionate ground. The applicant was given a notice on 22.7.2015 asking him to show cause as to why his service may not be terminated for failure to produce caste validity certificate. The applicant applied to the Caste scrutiny Committee for caste validity certificate on 7.11.2015, and submitted a representation dated 20.11.2015 to the Respondent no.2 that he has already approached Caste Scrutiny Committee for caste validity certificate and he may granted some time to produce the same. However, on the same date, his services were terminated and he was relieved by order dated 4.12.2015 by Respondent no.3. Learned

Counsel for the applicant stated that the applicant has since procured the caste validity certificate on 9.2.2016 and tendered it to the Respondent no.2 on 15.2.2016. He is accordingly seeking quashing of order dated 20.11.2015.

4. Learned P.O. argued on behalf of the Respondents that as per the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes) Vimukta Jatis), Nomadic Tribes, Other Backward Classes, and Special Backward category (Reputation of Issuance and Verification of Caste Certificate) Act, it is the responsibility of the person seeking benefit of reservation to produce the caste validity certificate. The applicant was appointed as Jr. Clerk on 15.6.2006, and it was his responsibility to produce caste validity certificate within a reasonable time. However, the applicant admittedly applied for issuance of validity certificate only on 7.11.2015 i.e. more than 3 months after the show cause notice dated 22.7.2015 was served on him. Learned P.O. argued that the impugned order is perfectly valid as per Section 10 of the Caste Certificate Act.

5. We find that though the Applicant was appointed on compassionate basis he was adjusted against S.C. category. He was expected to produce caste validity certificate as per the provisions of the Caste Certificate Act. The applicant was given a show cause

notice dated 22.7.2015 as to why his services should not be terminated for his failure to produce caste validity certificate. The applicant has admitted (synopsis Sr.No.3) that he did not reply to his show cause notice. He also admits that he applied to the Scrutiny Committee on 7.11.2015 and submitted representation for extension of time on 20.11.2015. A copy of this representation is at page no.12 of the Paper Book. However, by order dated 20.11.2015 issued by the Respondent no.2, the services of the Applicant were terminated. This action was in conformity with the provisions of the Caste Certificate Act. However, the applicant has since procured caste validity certificate and submitted it on 15.2.2016 to the Respondent no.2. A copy is placed on record (page no.18 of the Paper Book). This Tribunal in judgment dated 18.3.2016 in OA No.794/2015 has held that :

“6. It is, however, a fact, that services of the Applicant were not terminated for any misconduct. It was only due to his failure to produce Caste Validity Certificate. The applicant has now obtained caste validity certificate as S.C. candidate from concerned Caste Scrutiny Committee on 12.1.2016. The order dated 25.11.2015, therefore, is not sustainable, in the interest of justice. The order dated 25.11.2015 is, therefore, quashed and set aside. The Respondents are directed to take applicant back in service with continuity of service, within a period of four weeks from the date of this order. The Applicant will however, not be eligible to get back wages.”

6. Facts in the present case are remarkably similar. The Applicant has submitted caste validity certificate dated 9.2.2016 to the Respondent no.2 on 15.2.2016. The applicant's services were not terminated for any misconduct but for non-submission of caste validity certificate. Impugned orders dated 20.11.2015 and 1.3.2016 issued by the Respondent no.2 are therefore quashed and set aside. The Respondents are directed to take the applicant back in service with continuity of service within a period of four weeks from the date of this order. The applicant will, however, not be eligible for back wages. This O.A. is allowed accordingly with no order as to costs.

MEMBER (J)
Atpoa21216-db-ak

VICE CHAIRMAN (A)

