

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.330/2024 (D.B.)**

Chandrabhan Harishchandra Parate, )  
 Aged 58 years, Occ. Deputy Commissioner, )  
 O/o Divisional Commissioner, )  
 R/o Zenda Chowk, Dharampeth, Nagpur. )

... **APPLICANT**

**// V E R S U S //**

1] **The State of Maharashtra,** )  
 Through its Chief Secretary, )  
 Revenue and Forest Department, )  
 Mantralaya, Mumbai 400 032. )

2] **The Divisional Commissioner,** )  
 Nagpur Division, Civil Lines, )  
 Nagpur 440 001. )

... **RESPONDENTS**

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**Shri R.S. & P.R. Parsodkar, ld. counsel for Applicant.**  
**Shri M.I. Khan, ld. P.O. for the Respondents.**

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**Coram :- Hon'ble Shri Justice Vinay Joshi,**  
**Member (J) and**  
**Hon'ble Shri Nitin Gadre,**  
**Member (A).**

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**Date of Reserving for Judgment : 10/02/2025**

**Date of Pronouncement of Judgment : 18/02/2025**

**J U D G M E N T****Per : Member (A).****(Delivered on this 18<sup>th</sup> day of February, 2025)**

Heard Shri R.S. Parsodkar, learned counsel for the Applicant and Shri M.I. Khan, learned P.O. for the Respondents.

2. The applicant has filed this application on 28/03/2024 challenging his dismissal order issued just 03 days before his retirement i.e. on 26/03/2024. As per his application, the chronology of events is as follows:-

*“ The applicant belongs to Halba Koshti ST. He was initially appointe as Tahsildar after being selected by MPSC. Thereafter he was confirmed and made permanent in service.*

*The applicant was issued caste validity certificate of Halba Scheduled Tribe.*

*The Caste Scrutiny Committee cancelled the caste validity certificate and therefore petitioner filed writ petition no. 6029/2012. The Hon'ble High Court remanded back the matter to the committee to decide caste claim within 3 months and High Court granted protection of service to the applicant which order was no challenged and attained finality. That, the applicant was required to be considered for promotion to the post of Additional Collector, Selection Grade in open category.*

*As the representation of the applicant for promotion was not decided the applicant filed O.A. No. 263/2020 claiming promotion as per seniority. The caste claim was invalidated against which the petitioner filed writ petition before High Court and the High Court dismissed the said writ petition against which SLP was filed which is also dismissed.*

*The applicant was placed on supernumerary post as per G.R., dated 21.12.2019 and his appointment was further extended.*

*Although the protection is granted by the High Court and recommended by the High Power Committee, during the pendency of O.A., the impugned order of dismissal just 3 days before his retirement on 31.3.2024, has been issued on 26.3.2024 illegally.”*

**3.** This Tribunal stayed the impugned order dated 26/03/2024 vide it's order dated 28/03/2024. The applicant has submitted this application to get the following reliefs:-

*“8.(a) Quash and set aside the impugned communication/ order, dated 26.3.2024 bearing No. 2029/C.No.37/2020/E1 of dismissal of applicant from service issued by respondent no.1 which is at Annexure A-1, being arbitrary and contrary to law*

*(b) By way of issuance of order or directions direct the respondents to release entire retiral benefits i.e. leave encashment, G.P.F., gratuity, commutation of pension, Group Insurance, regular pension etc. on his retirement on superannuation on 31.3.2024, within a stipulated period of time.*

(c) *Allow the application with costs; and*

(d) *Grant any other relief deemed fit in the circumstances of the case in favour of the applicant;*

9. *This Hon'ble Tribunal may kindly be pleased to stay the effect, implementation and operation of the impugned communication/order, dated 26.3.2024 issued by respondent no.1- the State of Maharashtra, Mantralaya, Mumbai which is at Annexure A-1 and direct the respondents to continue the applicant on the present post till his superannuation on 31.3.2024."*

4. The respondents have submitted their reply on 01/08/2024. The relevant portion of their reply is as follows:-

*"10. It is submitted that, from the above factual matrix, it is clear that, the Caste Certificate Scrutiny Committee has invalidated the caste claim of the applicant of belonging to the "Halba" Scheduled Tribe and has confiscated the same and directed the Appointing Authority of the Applicant to take action against the Applicant under section 10(1) read with Section 10(2) of the Maharashtra Act No. XXIII of 2001. This order of the Caste Certificate Scrutiny Committee is upheld by the Hon'ble High Court Bombay, Bench at Nagpur vide order dated 06<sup>th</sup> April, 2016 and by the Hon'ble Supreme Court vide Judgment & Order dated 10<sup>th</sup> August, 2021. To put in other words, the order of the Caste Certificate Scrutiny Committee dated 01<sup>st</sup> February, 2016 is upheld upto Hon'ble Supreme Court of India. It is submitted that, in the above circumstances, it was mandatory for the Respondent Department to execute and implement the order of Hon'ble Supreme Court dated 10<sup>th</sup> August 2021 in Civil Appeal No.370/2017 vis-à-vis the order of*

*Caste Certificate Scrutiny Committee dated 01<sup>st</sup> February, 2016. It is submitted that, therefore, in compliance of the order of Hon'ble Supreme Court, the Respondent Department was bound to take action against the Applicant as per provisions of section 10 (1) read with section 10(2) of the Maharashtra Act No. XXIII of 2001 and terminate the services of the Applicant."*

5. In view of the above discussions, the facts of the case can be listed as follows:-

- i) The applicant belongs to the caste "Halba Koshti". The applicant was appointed in Government Service on 18/01/1990 as a candidate selected on a post reserved for the Scheduled Tribe category.
- ii) The Scheduled Tribe Certificate Scrutiny Committee vide its order dated 13/04/1989 declared that:

*"The caste claim of the candidate is treated valid of his belonging to Scheduled Tribe, in view of the Judgment of Nagpur Bench of Bombay High Court in Writ Petition No.2944/1984, dated 04/06-09-1985 against which S.L.P. No.16372 is pending before the Supreme Court of India."*

- iii) This validity was subsequently cancelled. The applicant filed a writ petition against this decision. The Hon'ble High Court, Bench at Nagpur in W.P. No.6029 of 2012 in

the case of ***Chandrabhan Harishchandra Parate VS. The State of Maharashtra & Ano.***, passed on 19/09/2013, held that the Caste Validity Certificate, which was granted to the petitioner, was cancelled without giving an opportunity of hearing and passed the following order:-

*“7] It is made clear that in the event the petitioner's claim of belonging to scheduled tribe is rejected, the petitioner will not be entitled again to claim belonging to S.B.C. category. It is further made clear that in the event the petitioner's claim of belonging to scheduled tribe is invalidated and if any promotion has been granted to him on or after 28<sup>th</sup> November, 2000 on the basis that he belongs to scheduled tribe, the same shall be taken back and the petitioner shall be restored to the position as on 28<sup>th</sup> November, 2000.”*

6. The Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division vide its order dated 01/02/2016 in the case of ***Shri Chandrabhan Harishchandra Parate***, decided the claim afresh and cancelled the Conditional Validity Certificate issued to the applicant and declared that the applicant and his progeny will not be entitled for any benefits of Scheduled Tribe in future. The Committee also suggested that action should be taken against the applicant. The Hon'ble High Court vide order dated 06/04/2016

has upheld the order of the committee in W.P. No. 2153 of 2016 in the case of ***Chandrabhan Harishchandra Parate vs State of Maharashtra***. Finally, the Hon'ble Supreme Court in Civil Appeal No. 370 of 2017 in the case of ***Chandrabhan VS State of Maharashtra & Ors.*** passed an order dated 10/08/2021 to dismiss the Appeal. The relevant portion of the order is as follows:

*"The conclusions arrived at by this Court in Jagdish Balram Bahira and others (supra) are thus clear that the impact of the legislation which came into effect on 17.10.2001 must have full and unhindered effect and operation.*

*Once the claim of the appellant that he belonged to "Halba" stood negated by the Caste Scrutiny Committee, no advantage can thereafter be extended to the appellant. Any such extension would be running counter to the legislation as well as the authoritative pronouncement in Jagdish Baliram Bahira and Others (supra)."*

7. The Hon'ble Supreme Court has passed an order in Civil Appeal No.8928 of 2015 in the case of ***Chairman and Managing Director FCI and Ors VS. Jagdish Balaram Bahira and Ors with other matter***, decided on 06/07/2017. The State Government issued a G.R. dated 21/12/2019 to implement this order. The State decided that those employees, whose caste certificates of S.T. category have been invalidated, should be

shifted to supernumerary posts. The State Government has extended various services and retirement related benefits to the employees shifted to the supernumerary posts vide G.R. dated 14/12/2022. The applicant was shifted to a supernumerary post vide G.R. dated 27/01/2020. The duration of this appointment was further extended vide G.R. dated 31/03/2021. The applicant was then terminated from service vide G.R. dated 26/03/2024, just a few days before his retirement on 31/03/2024. The State Government has relied upon the judgement by the Hon'ble Supreme Court in Civil Appeal No.370 of 2017 in the case of ***Chandrabhan VS State of Maharashtra & Ors. (cited supra)*** as mentioned in above paragraph. The Apex Court has said that, no advantage can be extended to the applicant after his "Halba" caste claim is rejected by the Scrutiny Committee. This Tribunal stayed this termination order; vide its order dated 28/03/2024. As an effect of this order of the Tribunal, the applicant retired on a supernumerary post, on which he was earlier posted vide G.R. dated 27/01/2020 and the term was extended vide the subsequent G.R. This shifting of the applicant to the supernumerary post, after rejection of his S.T. caste claim, is in accordance with the policy which the State Government has adopted for all the similarly situated persons and



therefore the applicant is not being offered any special advantage in doing so. We therefore pass the following order.

**O R D E R**

1. O.A. is allowed.
2. The dismissal order of the applicant dated 26.03.2024 is quashed and set aside.
3. The applicant was shifted to a supernumerary post vide G.R. dated 27.01.2020 and he has retired on 31.03.2024. He should be sanctioned service and retirement benefits in accordance with the policies framed by the Government regarding similarly situated employees shifted to the supernumerary posts, within four months from the date of this order.
4. No order as to cost.

**Member (A).**

**Member (J).**

**Dated :-18/02/2025.**

**PRM**

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

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Member (A)  
& Member (J).

Judgment signed on : 18/02/2025