

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 785 OF 2022

DISTRICT :- AHMEDNAGAR

Bhaurao Mahadu Ghane,)
Age - 58 years, Oce. Ex. Talathi,)
R/o Warungushi, Tq. Akole,)
Dist. Ahmednagar.) .. **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Social Justice, Culture Affairs and)
Sports Department, 1st Floor,)
Annex. Building, Mantralaya,)
Mumbai – 400 032.)
2. **The Divisional Commissioner,**)
Nashik – 422 101.)
3. **The Collector,**)
Revenue Department,)
Ahmednagar – 414 001.)
4. **The Sub-Divisional Officer,**)
Sangamner Division, Sangamner,)
Dist. Ahmednagar – 422 605.)
5. **The Tahsildar,**)
Akole, Tal. Akole, Dist. Ahmerdnagar.)..**RESPONDENTS**

APPEARANCE : Shri Ajay T. Kanawade, learned counsel
for the applicant.

: Shri V.G. Pingle, learned Presenting
Officer for the respondent authorities.

**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
SHRI VINAY KARGAONKAR, MEMBER (A)**

DATE : 26.08.2024

O R A L - O R D E R

(Per : Justice Shri P.R. Bora, Vice Chairman)

Heard Shri Ajay T. Kanawade, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. The applicant was appointed as a Talathi vide order dated 4.2.1985 and accordingly he joined the said post and started working as Talathi in Kopergaon Revenue Division w.e.f. 7.2.1985. The services of the applicant came to be terminated vide order dated 4.11.2015 on the ground that the applicant failed to produce on record the caste/tribe validity certificate despite due opportunities given to him. The applicant has approached this Tribunal for quashment of the aforesaid order.

3. It is the case of the applicant that he entered into the Government services as Open category candidate and without taking any benefit of his caste/tribe. It is his further contention that after served with notice the applicant tried to approach the Caste Scrutiny Committee, however, his proposal was not considered by the said committee as the same was not routed through the office in which the applicant was working.

4. When the present matter was heard by this Tribunal on 27.4.2022 after having considered the submissions made across the bar, the following order was passed:-

“3. From the material on record it appears that the applicant entered into Government service in the year 1985 and his services have been terminated in the year 2015. He has thus rendered 30 years period in the Government service. Having considered the aforesaid aspect we deem it appropriate to direct the respondent Nos. 3 to 5 to forward the caste certificate of the applicant for its validation to the Scheduled Tribe Caste Scrutiny Committee, Nasik within two weeks, even though the applicant is no more on their establishment.”

5. Accordingly a proposal of the applicant was forwarded to the Caste Scrutiny Committee through the office, where the applicant was serving and the Scheduled Tribe Certificate Scrutiny Committee, Nashik Division on 5.7.2022 has validated the caste/tribe of the applicant. The said caste validity certificate is placed on record by the applicant.

6. When today the present matter is being heard by us, the learned counsel appearing for the applicant submitted that the applicant has in the meanwhile attained the age of superannuation and, as such, he may not claim the relief of reinstatement. The learned counsel for the applicant is now praying for considering the case of the applicant for grant of pension having regard to the fact that he has served with the

Government for the period of about 30 years i.e. from the year 1985 to 2015.

7. The respondent nos. 3 to 5 have filed their joint affidavit in reply and have thereby opposed the contentions raised in the Original Application and the prayers made therein. Learned Presenting Officer submitted that despite giving due opportunities to the applicant when he failed to produce on record the caste/tribe validity certificate, there was no alternative for the respondents except to terminate the services of the applicant. Learned P.O. pointed out the concerned Resolutions of the Government in this regard. Learned P.O. also pointed out that lastly also one month's notice was served upon the applicant, however, he did not take the necessary steps towards validation of his caste and, as such, his services came to be terminated. Learned P.O. submitted that no error can be noticed in the order of termination so issued by the respondents. He, therefore, prayed for dismissing the Original Application.

8. We have duly considered the submissions made on behalf of the applicant, as well as, the learned Presenting Officer appearing for the State. We have also gone through the documents placed on record. It is undisputed that the applicant

did not submit the caste/tribe validity certificate though he was asked for by the office to submit such certificate. The Government Resolutions, which are placed on record, also cannot be disputed. It is however the case of the applicant that he did not enter into the Government services by taking benefit of his caste/tribe. Copy of the first page of the service book of the applicant is placed on record at page 90 of the paper book. The service book admittedly does not reflect that the applicant was given benefit of his caste/tribe and was selected and appointed by giving benefit of his caste/tribe. The order of appointment is not produced on record either by the applicant or by the respondents.

9. It is the further contention of the applicant that as is revealing from the pleadings, when he tried to obtain the caste/tribe validity certificate, the said Committee did not consider his request stating that his proposal was not received through the office in which the applicant was working. There is substance in the contentions so raised by the applicant. In this regard there is no concrete evidence as to at which time the request was made by the applicant for forwarding his caste/tribe certificate to the Caste Scrutiny Committee. The respondents also have not produced any record in this regard.

10. Now the fact which requires to be considered is that the caste/tribe of the applicant has now been certified and validity certificate is placed on record. It is also to be considered that by the relevant date the applicant had already served for the period of 30 years and thereafter his services are terminated only on the ground that he did not produce the caste/tribe validity certificate. From the material on record, there is reason to believe that the caste/tribe certificate of the applicant was not forwarded to the concerned scrutiny committee by the office of respondent No. 3. As such the specific order was passed by this Tribunal directing the respondent No. 3 to forward the caste/tribe certificate of the applicant for scrutiny to the concerned caste/s tribe scrutiny committee and the said committee after conducting the due enquiry has validated the caste/tribe of the applicant. The respondents have not disputed the said fact. The validity certificate is placed on record.

11. In the above circumstances, it appears to us that though now it may not be possible to pass the order of reinstatement of the applicant, since in the meanwhile period the applicant has attained the age of superannuation, the impugned order has to be set aside so that the applicant would

be entitled for pension and pensionary benefits. For the reasons stated above, we deem it appropriate to pass the following order :-

ORDER

- (i) The order dated 04.11.2015 passed by respondent no. 4 is quashed and set aside. Consequently, the applicant is held to have retired on attaining the age of superannuation.
- (ii) Applicant shall be entitled for pension and pensionary benefits as per the rules.
- (iii) Respondents shall prepare and forward the pension proposal of the applicant to the concerned Accountant General Office within 03 months from the date of this order and further ensure that admissible pensionary benefits are paid to the applicant within 06 months from the date of this order.
- (iv) The Original Application stands allowed in the aforesaid terms, however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 26.08.2024