

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.333 OF 2018**

**DISTRICT : SINDHUDURG**

Smt. Babita Babu Chavan. )  
Age : 62 Yrs., Occu.: Retired as Cook from )  
Government Girls Hostel, Sawantwadi, )  
District : Sindhudurg, and residing at A/P. )  
Kolgaon, Tal.: Sawantwadi, Dist.: Sindhudurg. )...**Applicant**

**Versus**

1. The Assistant Commissioner, )  
Social Welfare, Sindhudurg, having )  
Office at Dr. Ambedkar Social Justice )  
Bhawan, Sindhudurg Nagari, )  
Tal.: Kudal, District : Sindhudurg. )
2. The Regional Deputy Commissioner. )  
Social Welfare, Mumbai Division, )  
Mumbai, having office at Room No.619, )  
6<sup>th</sup> Floor, Konkan Bhavan, CBD Belapur, )  
Navi Mumbai – 400 014. )
3. The Commissioner. )  
Social Welfare (M.S), Pune having )  
Office at 3, Church road, Pune. )
4. The State of Maharashtra. )  
Through Principal Secretary, )  
Social Justice and Special Assistance )  
Department, Mantralaya, Mumbai – 32. )...**Respondents**

**Mr. A.V. Bandiwadekar, Advocate for Applicant.**

**Mrs. K.S. Gaikwad, Presenting Officer for Respondents.**

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

**DATE** : **18.04.2019**

**JUDGMENT**

1. The Applicant has filed the present Original Application for directions to the Respondents to release her retiral benefits, which are withheld for non-production of Caste Validity Certificate invoking the jurisdiction of this Tribunal under Section 19 of Administrative Tribunals Act, 1985.

2. Briefly stated facts giving rise to this application are as under :-

The Applicant was born on 04.09.1956 at Velgam, Tal. Bicholi, Goa and completed her education in Goa. She got married with Babu G. Chavan on 11.06.1979 and thereafter migrated to the State of Maharashtra. She is Hindu Chambhar by caste (S.C. Category). By order dated 29<sup>th</sup> February, 2019, the Divisional Social Welfare Officer, Kudal, District : Sindhudurg appointed her on the post of Cook for a period of six months initially. Thereafter, by order dated 23.09.1992, her appointment was continued on regular basis. Since then, she was in continuous service till attaining the age of superannuation on 04.09.2016. Accordingly, she stood retired from Government service w.e.f.30.09.2016. After retirement, she made representations for release of retiral benefits. However, it could not be finalized for want of Caste Validity Certificate. The Applicant contends that the insistence on the Respondents for Caste Validity Certificate was unwarranted on the ground that her appointment was from Open Category. However, the Respondent No.1 directed the Applicant by letter dated 06.07.2017 to produce Caste Validity Certificate for releasing the retiral benefits. She again made representations dated 17.07.2017, 18.07.2017 and 19.07.2017, but in vain. Ultimately, she approached this Tribunal by filing present O.A.

3. The Applicant contends that, in view of letter dated 08.02.2017 issued by District Caste Certificate Scrutiny Committee, Ratnagiri (hereinafter referred to as 'Scrutiny Committee') in case the candidate is appointed (though belongs to Reserved Category) from Open Category, then there is no requirement of Caste Validity Certificate of such candidate. She further contends that, in terms of G.R. dated 16.05.2007 also, there is no requirement of Caste Validity Certificate. With these pleadings, she prayed for directions to the Respondents to release retiral benefits forthwith.

4. The Respondents resisted the application by filing Affidavit-in-reply (Page Nos.61 to 70 of Paper Book) *inter-alia* denying the entitlement of the Applicant to the relief claimed. The Respondents contend that the Applicant was appointed as Cook under Reserved Category (Scheduled Caste), and therefore, the same was reflected in Service Book as well as Roster maintained by the Department. Therefore, in terms of G.R. dated 18.05.2013, she was required to submit Caste Validity Certificate for release of retiral benefits. The Respondents further contend even before retirement, the Applicant was called upon by letters dated 16.08.2014 and 07.09.2015 to submit Caste Validity Certificate in terms of G.R. dated 18.05.2013. The Applicant by reply dated 28.09.2015 informed that she had already submitted the application before 'Scrutiny Committee' for issuance of Caste Validity Certificate and the same will be submitted on receipt of the same from 'Scrutiny Committee'. The Respondents further contend that, as per decision of 'Scrutiny Committee' dated 25<sup>th</sup> April, 2018, the Caste Certificate of the Applicant has been invalidated on the ground that she being migrated from the State of Goa, the Caste Certificate issued by Executive Magistrate, Sawantwadi dated 08.09.1988 cannot be accepted in State of Maharashtra and accordingly, her Caste Certificate came to be cancelled.

5. As per Section 10(1) of Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and

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Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (hereinafter referred to as 'Caste Certificate Act 2000') on cancellation of caste certificate by the Security Committee, the employee's benefits are liable to be withdrawn. The Respondents thus contend that she is not entitled to the benefit of reservation, having her Caste Certificate stands invalidated by the 'Scrutiny Committee'. The Respondents thus sought to justify the act of withholding retiral benefits and prayed to dismiss the application.

6. In view of pleadings and submissions advanced at the Bar, the following factors emerges as uncontroverted :-

- (i) The Applicant was appointed on the post of Cook on 29.02.1992 and her services were regularized by order dated 23.09.1992 (Page No.20 of P.B.).
- (ii) In order dated 23.09.1992, there is no stipulation that the Applicant was appointed on reserved post nor there is any stipulation that she was required to submit Caste Certificate.
- (iii) The Caste Scrutiny Committee by order dated 25<sup>th</sup> April, 2008 (Page Nos.173 to 182 of P.B.) revalidated Caste Certificate obtained by the Applicant from Executive Magistrate, Sawantwadi dated 06.09.1988.
- (iv) The District Caste Scrutiny Committee revalidated Applicant's Caste Certificate mainly on the ground that she is migrant and cannot be said domicile of State of Maharashtra on deemed date i.e. 10<sup>th</sup> August, 1950.
- (v) The Government of Maharashtra by G.R. dated 18<sup>th</sup> May, 2013 issued direction that the Government servants appointed from Reserved Category, are required to submit the Caste Validity Certificate within stipulated time and in case of Government servant retired after 15.06.1995 will also be required to furnish

Caste Validity Certificate within six months else his pension will be stopped. By show cause notice dated 16.08.2014, the Applicant was directed to produce Caste Validity Certificate in terms of G.R. dated 18.05.2013.

- (vi) The Clause No.4 of G.R. dated 16.05.2007 provides instructions that where the candidates belonging to Backward Class are appointed from Open Category and had not availed the benefit of reservation, then in respect of such Government servant, there would be no necessity of Caste Validity Certificate. However, the Caste Validity Certificate would be essential, who claimed the benefit of reservation.

7. Shri A.V. Bandiwadekar, learned Advocate for the Applicant vehemently urged that the appointment of Applicant was from Open category and she was not at all appointed on reserved post for S.C. category. He has pointed out that except extract of 100 Point Roster Register, there is no other cogent evidence to establish that the appointment of the Applicant was on reserved post. He has rightly pointed out that in appointment order (Page No.20 of P.B, dated 23.09.1992), there is no stipulation that the appointment was on reserved post and she was required to submit Caste Validity Certificate. He further canvassed that, as per settled legal principle, there is no embargo upon the reserved category candidate to compete for appointment in the Open or General category. He has further pointed out that the Applicant had basically obtained Caste Certificate, but she being migrated from Goa to the State of Maharashtra, the Caste Scrutiny Committee invalidated the Caste Certificate on the ground of migration and it is not a case where Caste Validity Certificate of the employee/Applicant found false or fabricated. He, therefore, emphasized that the appointment not being on reserved post, the insistence of the Respondents for

*See below*

obtaining Caste Validity Certificate is basically erroneous, being proceeded on the wrong assumption.

8. Per contra, Smt. K.S. Gaikwad, learned Presenting Officer mainly relied upon the extract of 100 Point Roster Register wherein the Applicant's name is figured as Backward Class candidate falling in the category of Scheduled Caste. On the basis of it, the learned P.O. sought to justify the Respondents' stand in the light of Judgment of Hon'ble Supreme Court in **2017(8) SCC 670 (Chairman & Managing Director, FCI & Ors. Vs. Jagdish B. Bahira & Ors.)**.

9. The crux of the matter is whether the Applicant was appointed on reserved post (reserved for S.C. candidate) and had derived the benefit on the basis of reservation. Needless to mention that where it is so, then obviously, the Applicant was required to furnish Caste Validity Certificate else she would not be entitled to the retiral benefits in view of direction issued by Hon'ble Supreme Court in **Chairman and Managing Director, FCI's case (cited supra)** which extensively dealt with legal position on this point as relied by learned P.O. In the present case, the Respondents proceeded on assumption that only because the Applicant belongs to Scheduled Caste and her caste is recorded in the Service Book, she was appointed on reserved post. True, the Respondents in this behalf sought to place reliance upon the extract of 100 point Roster Register (Page Nos.102 to 106 of Paper Book), which will be dealt with in detail a little later.

10. Before dealing with the factual aspect, it would be apposite to highlight the legal principles expounded in various Judgments.

11. In **Writ Petition No.1310/2014 (Suresh P. Hakumdar Vs. State of Maharashtra)**, the Division Bench of Hon'ble High Court has categorically held that, no embargo can be placed even upon reserved category candidate to compete for promotion to a post in the Open category, relying upon the

decisions of Hon'ble Supreme Court in **(1998) 1 SCC 285 (Kasambhai F. Ghanchi Vs. Chandubhai D. Raput)** and in a case **(2009) 4 SCC 1 Bihari Lal Rada Vs. Anil Jain (Tinu) & Ors.)** in which it has been held that the unserved seat described as General Category Seat or Open Seat is available for all candidates irrespective of their castes, who are otherwise qualified for the post.

12. Furthermore, in **(1990) 3 SCC 130 (Marri Chandra Shekhar Rao Vs. Dean, Seth G.S. Medical College & Ors.)**, the Hon'ble Supreme Court has clarified that the expression "for the purpose of this constitution" and "in relation to that State" as they appear in Article 341 and 342 of Constitution of India mean and imply that a person who is recognized as a member of SC/ST is in original State will be entitled to all the benefits under the Constitution in that State only and not any other parts of the country wherever he or she migrates.

13. The aforesaid legal position has been reaffirmed by the Hon'ble High Court in **Writ Petition No.363/2016 (State of Maharashtra Vs. Maruti L. Karangale) dated 31<sup>st</sup> July, 2018**. It was a case arising from a decision given by this Tribunal in O.A.No.957/2011. In that case, the Applicant was migrant from Karnataka State and belonged to Scheduled Caste which was recognized in his home State. He was appointed as Sub-Treasury Officer in District Treasury, Pune. He was called upon to produce Caste Validity Certificate when he was due for promotion. It is in that context, he had filed O.A.No.957/2011 in this Tribunal. In fact situation, there was no record to show that the appointment was on reserved post, and therefore, directions were given to consider his claim for promotion from Open category. While deciding the matter, the Tribunal placed reliance on the Judgment of Hon'ble High Court in **Suresh P. Hakumdar's** case. The decision given by this Tribunal was confirmed by Hon'ble High Court in **Writ Petition No.363/2016 (State of Maharashtra and Ors. Vs. Maruti L. Karangale) decided on 31<sup>st</sup> July, 2018**. The Hon'ble Bombay High Court held that the employee Shri Karangale being migrant, the insistence on the part of Government to produce

*Writ Petition*

Caste Validity Certificate from the State of Maharashtra as pre-condition for promotion, even to Open category seat is untenable. In that case, the employee Shri Karangale was not claiming promotion from reserved quota and was competing the claim from Open category. Thus, the legal principle enunciated in Writ Petition No.363/2016 is that even if the candidate belongs to Reserved Category, he can compete for Open post.

14. Shri A.V. Bandiwadekar, learned Advocate for the Applicant also referred to the decision of Hon'ble High Court in *(Shamsingh N. Rajput Vs. The State of Maharashtra and Ors.) decided on 22<sup>nd</sup> October, 2013*. In that case, the Petitioner was appointed as Store Keeper in 1964 on the establishment of State Government and superannuated in 2001. As retiral benefits were withheld, he had filed O.A.633/2003 before this Tribunal, which came to be allowed by order dated 26<sup>th</sup> July, 2004. It was the basic contention of the Petitioner that, neither he was appointed on a post reserved for any reserved category nor he was promoted to any post under reserved category. In Service Book, there was no specific entry that the original appointment of the Petitioner was on reserved post and also there was no entry to show that even the promotions were granted to him on reserved post. Thus, the factual position emerges was that there was no record with the Government to show that the Petitioner was appointed on a post reserved for V.J.N.T category. Shri Bandiwadekar placed reliance on Para No.12 of the Judgment, which is as follows :

*“12. Even assuming that the petitioner was appointed in the year 1964 on the post reserved for V.J.N.T category, the Petitioner cannot be visited with the consequences provided under Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. The provision of Section 10 which contains drastic consequences cannot be allowed to operate retrospectively.”*

The Hon'ble High Court remanded the matter to MAT with certain direction. As such, it was the first round of litigation. In second round of litigation again, the matter reached before Hon'ble High Court in **Writ Petition No.9981/2014 : Shamsingh N. Rajput Vs. The State of Maharashtra and Ors., which was decided on 19<sup>th</sup> April, 2017**. The Hon'ble High Court allowed the Writ Petition and granted pensionary benefits to the Petitioner. Para Nos.18 and 19 are material, which are as follows :

*"18. Having gone through the order of the Tribunal we notice that as regards initial entry into the service, there is absolutely no material to indicate that the same is on a reserved post. The respondents have not furnished any material before the Tribunal to indicate that the appointment of the petitioner is on the post which is for reserved category.*

*19. This Court in Writ Petition No. 5420 of 2011 having held that provisions of Section 10 of the said Act of 2000 which contains drastic consequences cannot be allowed to operate retrospectively, the order passed in Writ Petition No. 5420 of 2011 has attained finality. The Tribunal in these circumstances ought not to have remanded the matter back to the respondents for a fresh decision. As indicated earlier, the petitioner retired way back in 2001 and now his age is 76 years. In this view of the matter, we are inclined to set aside the order of the Tribunal and allow this Petition in terms of prayer clauses (b) & (c)."*

15. Shri A.V. Bandiwadekar, learned Advocate for the Applicant further referred to the decision of Hon'ble High Court in **Writ Petition No.1752/2011 (Original Jurisdiction) Suhas Vs. Prabhudesai Vs. Joint Director) decided on 4<sup>th</sup> December, 2018**. In this matter, the Petitioner was appointed as Senior Clerk in 1979 and superannuated in 2010. However, his retiral benefits were withheld on the ground that, at the time of appointment, the S.S.C. Certificate was not produced. The Hon'ble High Court observed in Para No.6 of the Judgment that the State Government could not explain any provision of law under which the State Government can demand S.S.C. Certificate after retirement and the stand taken by the Respondent – Government was hyper technical approach, which has deprived of the Petitioner for getting retiral benefits for eight years. In fact

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situation, the Hon'ble High Court allowed the Writ Petition and cost of Rs.25,000/- was imposed upon the State Government. This authority is pressed into service by the learned Advocate for the Applicant to highlight that after retirement, the Respondents cannot insist for Caste Validity Certificate.

16. A reference was also made to the Judgment of Hon'ble Bombay High Court in **2019(2) MLJ 654 : Ajinkya Khadatkar Vs. Managing Director, MSED Company Ltd.** wherein the issue of submission of Caste Validity Certificate in relation to the appointment on compassionate ground was involved. The Hon'ble High Court held that, unless Rules and policy of State Government specifically provides that the reservation policy applicable to compassionate appointment, there cannot be presumption that the compassionate appointment would be subject to validation and caste claim only because the candidate belongs to SC or ST and order to submit Caste Validity Certificate was set aside. In this decision, the Hon'ble High Court relied on its earlier Judgment in **Pramod S. Shinde Vs. State of Maharashtra : 2017 (3) MLJ 925** arising from similar situation wherein the Hon'ble High Court held that in absence of material to indicate that the employee was appointed on the post reserved for Backward category on compassionate appointment, the State is not justified in demanding Caste Validity Certificate.

17. Whereas the learned P.O. referred to the judgment of Hon'ble Supreme Court in **Chairman & Managing Director, FCI's** case (cited supra) wherein it has been held that where Caste Certificate has been invalidated by the Scrutiny Committee, no benefit of any nature whatsoever would be admissible to the Respondents on the basis of his claim which has been invalidated. In that case, the Hon'ble Apex Court declined to pass any order for recovery from the employee. In the said Judgment, the Hon'ble Apex Court referred to Para No.19 of the Judgment in **R. Vishwanatha Pillai Vs. State of Kerala : (2004) 2 SCC 105**, which is as follows :

*"19. The rights to salary, pension and other service benefits are entirely statutory in nature in public service. Appellant obtained the appointment against a post meant for a reserved candidate by producing a false caste certificate and by playing a fraud. His appointment to the post was void and non est in the eyes of law. The right to salary or pension after retirement flow from a valid and legal appointment. The consequential right of pension and monetary benefits can be given only if the appointment was valid and legal. Such benefits cannot be given in a case where the appointment was found to have been obtained fraudulently and rested on false caste certificate. A person who entered the service by producing a false caste certificate and obtained appointment for the post meant for Scheduled Caste thus depriving the genuine Scheduled Caste of appointment to that post does not deserve any sympathy or indulgence of this Court. A person who, seeks equity must come with clean hands. He, who comes to the Court with false claims, cannot plead equity nor the Court would be justified to exercise equity jurisdiction in his favour. A person who seeks equity must act in a fair and equitable manner. Equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of false caste certificate by playing a fraud. No sympathy and equitable consideration can come to his rescue. We are of the view that equity or compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practising fraud."*

18. In so far as decision of Hon'ble Supreme Court referred to above in ***Vishwanatha Pillai's case*** and ***Chairman & Managing Director, FCI's case*** is concerned, there could be no dispute about the proposition of law expounded in these authorities and have binding upon all the Courts. However, to incur such disqualification, it must be established that the appointment of the employee is made on posts reserved for particular reserved category and the employee has usurped the post by obtaining false certificate which should have gone to member of that particular category and in such situation, the appointment can be said void from its inception. However, the facts of the present case are totally different, and therefore, the decision relied upon by the learned P.O. are of no assistance to her.

19. As such, the legal principles expounded in the various Judgments can be summarized as follows :-

*Ans*

- (a) There is no embargo upon the reserved category candidate to compete to a post in the Open category.
- (b) A person who is recognized as a member of SC/ST is entitled to the benefits in original State and not in any other parts of the country whenever he or she migrates.
- (c) In case, where the post reserved for SC or ST or for any other category, if usurped on the basis of false Caste Certificate, such employee is not entitled to the continuation in service nor related service benefits.

20. Now, reverting to the facts of the present case, as stated earlier, the Applicant was appointed by order dated 29.02.1992 and she was regularized by order dated 23.09.1992. Those orders are placed on record at Page Nos.19 and 20 of P.B. What is significant and important to note that none of the order reflects or indicates that the appointment of the Applicant was on the reserved post neither there is any stipulation that she will have to submit Caste Validity Certificate during the course of her service. Thus, the absence of any such specific mention in the appointment order is one of the vital aspect to be borne in mind in view of specific contention of the Applicant that she was appointed on Open post. Needless to mention that only she belongs to reserved category and her caste as belonging to S.C. is shown in Service Book that *ipso-facto* does not mean that the appointment was on reserved post. Furthermore, the Respondents have not produced the copy of the Advertisement published at the relevant time to indicate the nature of post to be filled-in, neither they have produced the copy of application form submitted by the Applicant while her entry in service. In absence of any such fundamental and basic record, the Respondents cannot be allowed to proceed on the assumption that only because the Applicant belongs to S.C, the appointment was made on reserved post.

21. Now, turning to the extract of 100 Point Roster Register (Page Nos.102 to 106 of P.B.), except this extract, there is absolutely no other record to substantiate that the Applicant was appointed on reserved post. Furthermore, as rightly pointed out by the learned Advocate for the Applicant, this extract itself goes to show that the appointment of the Applicant was not at all on reserved post. This is one of the crucial aspects, which tilts the scale in favour of the Applicant in the light of other attending circumstances and settled legal principle discussed above.

22. At the very outset, it needs to be pointed out that this extract of Register seems to have been prepared in terms of G.R. dated 18.10.1997, as mentioned therein. As such, this is not the record maintained or written at the time of initial appointment of the Applicant in 1992. These entries in the Register seems to have been taken later on and was certified by BC Cell on 02.09.2005. Apart, what is significant to note that, as per 100 Point Roster Register, only one post each was reserved for S.C. and S.T. Total nine posts were shown reserved for reserved categories including SC, ST, OBC, etc. Herein, we are concerned with the posts reserved for S.C. As per this Register, only one post was reserved for SC and as against it, five persons were already posted belonging to SC, and therefore, four persons were shown appointed in excess. It further shows that, in so far as one post reserved for SC is concerned, the Roster Point was on the post occupied by Smt. I.S. Chavan (Date of appointment is 13.05.1980) and not by the present Applicant as per Serial No.1 of the Register. It further shows that the 2<sup>nd</sup> candidate Shri S.B. Jadhav (S.C) (Date of appointment is 27.06.1986) was enrolled at Serial No.12. Third candidate Smt. S.B. Gadkar (Date of appointment is 01.07.1986) is at Serial No.21. The name of the Applicant (Date of appointment is 23.03.1992) is recorded at Serial No.27 and lastly one more employee viz. Shri S.S. Shravankar (Date of appointment is 06.08.1996) is recorded at Serial No.37. The caste of all these candidates are shown of

*W. S. Gadkar*

Scheduled Caste. It is thus manifest that there was only one reserved post for SC and as per Roster Point, it went to the post occupied by Shri I.S. Chavan, whose name is at Serial No.1 in the Register being earlier appointment in the year 1980. This being the position, it clearly spells that the subsequent candidates belong to SC were not appointed on reserved post and shown specifically 'excess' than the quota required to be filled-in as per 100 Point Roster Register.

23. If this is the situation, the Respondents cannot be allowed to contend that the appointment of the Applicant was on reserved post. In fact, the falsity of the Respondents' stand has been exposed in view of their own record. Perhaps, it is for this reason, we find no stipulation that the appointment of the Applicant is on reserved post in her appointment order issued in 1992. Suffice to say, the Respondents proceeded on wrong assumption that only because the Applicant happens to be SC, she is required to submit Caste Validity Certificate without ascertaining the factual and legal position. It is nothing less than non application of mind and the stand taken by the Respondents is totally erroneous and deserves to be rejected.

24. True, the Caste Scrutiny Committee by its decision dated 27.04.2018 invalidated the Caste Certificate of the Applicant issued by Executive Magistrate, Sawantwadi on 08.09.1988. Here, important to note that the reason for invalidating the Caste Certificate is that the Applicant is migrant from Goa to the State of Maharashtra. Therefore, the Committee opined that the reservation benefits are not applicable to the person who is not domicile of State of Maharashtra on 10<sup>th</sup> August, 1950 and on that ground, invalidated the Caste Certificate. As such, it is not a case that the Caste Certificate of the Applicant was found false or fabricated. She had obtained Caste Certificate from Executive Magistrate, Sawantwadi on 08.09.1988 after migration from Goa to Maharashtra,

but it was invalidated on the ground of migration, and therefore, not entitled to the reservation policy of State of Maharashtra.

25. The last but not least, a reference of Section 10 of provisions of Caste Certificate Act, 2000 is necessary. The said Act came into force on 18.10.2001. Whereas, the appointment of the Applicant is of 1992. This being the position, even assuming for a moment that the Applicant was appointed in 1992 on reserved post, in that situation also, Section 10 which has drastic consequences cannot be allowed to operate retrospectively as held by Hon'ble High Court in Writ Petition No.5420/2011 as noted in earlier part of the Judgment.

26. For the aforesaid discussion, I have no hesitation to sum-up that no record is forthcoming to establish that the appointment of the Applicant was on reserved post. On the contrary, the record produced by the Respondents itself make it loud and clear that, only one post was reserved for SC and it was already occupied by another employee when the Applicant entered into service. There is nothing to indicate that the Applicant has obtained any such benefits as a candidate of reserved post. Suffice to say, the stand taken by the Respondents for insistence of Caste Validity Certificate is totally erroneous and unsustainable in law and facts. Indeed as per Clause 4 of G.R. dated 16.05.2007, there was no necessity of Caste Validity Certificate in absence of record of appointment on reserved post. Resultantly, the O.A. deserves to be allowed and the Respondents are also liable to pay cost of Rs.10,000/- to the Applicant as a cost of this litigation. Hence, the following order.

### ORDER

(A) The Original Application is allowed.

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- (B) The Respondents are directed to release remaining retiral benefits to the Applicant as per entitlement within one month from today.
- (C) The Respondents shall pay Rs.10,000/- as a cost of litigation to the Applicant.

Sd/-

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

Mumbai

Date : 18.04.2019

Dictation taken by :

S.K. Wamanse.

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