

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 749 of 2023 (S.B.)**

Darbarsingh s/o Narayansingh Rajput,
Aged about 61 years, Occupation - Retired,
Resident of Vrundawan Nagar, Jalamb Road, Wadi,
Khamgaon, District Buldhana.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Secretary, Social Justice and Empowerment
Department, Mantralaya, Mumbai - 32.
- (2) The Divisional Caste Certificate Scrutiny Committee,
Amravati Division, Amravati, through its Chairman.
- (3) The Joint Director, Vocational Education and Training,
Regional Office, Morshi Road, Amravati, Tahsil and District,
Amravati.
- (4) Industrial Training Institute, Khamgaon, District Buldhana,
through its Principal.

Respondents.

**S/Shri D.M. Kale, S.M. Bhagde, Sarvesh Puddatiwar, Gazala
Shaikh, Advocates for the applicant.**

Shri S.A. Sainis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 08/07/2024.

J U D G M E N T

Heard Shri D.M. Kale, learned counsel for the applicant
and Shri S.A. Sainis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed as per the order dated 01/08/1987 on the post of कातारी निदेशक (Turner Instructor) in I.T.I. The applicant was not appointed in the reserved category. The applicant belongs to 'Rajput Bhamta' which is recognized as V.J. The applicant was promoted to the post of Craft instructor. After completing the 17 years of service, the documents for caste verification was submitted. The applicant retired on 31/10/2017.

3. Before the retirement, the respondents had submitted the claim of the caste to the Caste Scrutiny Committee. The applicant approached to the Hon'ble High Court. The service of the applicant was protected by the Hon'ble High Court. As per direction of the Hon'ble High Court, the Caste Scrutiny Committee decided the caste of the applicant as per the order dated 09/07/2019. Till the age of retirement, there was no any order of Caste Scrutiny Committee. The applicant is retired in the year 2017 and order of Caste Scrutiny Committee is dated 09/07/2019.

4. The respondents have issued order dated 24/06/2020 by which the pension and pensionary benefits of the applicant is denied on the ground that his caste claim is rejected by the caste scrutiny committee. Hence, the applicant approached to this Tribunal for the following reliefs –

“(i) quash and set aside the impugned order passed by the respondent no.2 Divisional Caste Scrutiny Committee, dated 19.07.2019, the same being illegal and in violation of principles of natural justice;

(ii) Quash and set aside the communication issued by respondent no.3 Joint Director dated 24.06.2020, and it be held that the applicant is entitled to all the retirement / pensionary benefits including that of pension and leave encashment, and direct the respondents to release the same to the applicant forthwith;

(iii) pending hearing and disposal of the present Original Application, by appropriate interim order be pleased to direct respondent nos. 3 and 4 to provisionally release the pension to the applicant, as also process for release of leave encashment; so that the applicant can survive;

(10) (a) pending hearing and disposal of the present Original Application, by appropriate interim order be pleased to direct respondent nos. 3 and 4 to provisionally release the pension to the applicant, as also process for release of leave encashment; so that the applicant can survive;

(b) grant ex-parte ad-interim in terms of prayer clause 9 (iii) in the interest of justice.”

5. Respondent nos.2,3 and 4 have filed reply. It is the contention of the respondents that the applicant was appointed in the reserved category. The caste of the applicant was / is invalidated by the caste scrutiny committee. Therefore, the applicant is not entitled for pension and pensionary benefits.

6. During the course of submission learned counsel for applicant has pointed the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in the case of **Shri Ashok N. Shelgenwar Vs. the Accountant General (A&E), Nagpur & Ors.**, in Writ Petition No.2397/2021, decided on 27/07/2023 and in the case of **Namdeo D. Nikhare Vs. Secretary, Public Works Department, Mumbai & Ors.** in Writ Petition No.547/2021, decided on 23/03/2022. There is no dispute that the applicant retired in the year 2017. Till the retirement, the caste validity of applicant was not decided. After the retirement, the caste claim was rejected by the caste scrutiny committee.

7. The Hon'ble Bombay High Court, Bench at Nagpur **Namdeo D. Nikhare Vs. Secretary, Public Works Department, Mumbai & Ors.** (cited supra) has held in para-6 as under –

“(6) In these facts when the petitioner was not placed on a supernumerary post, there does not appear to be any justification for withholding the petitioner's retirement benefits. No departmental proceedings were held against the petitioner prior to his superannuation on the basis of which he could be deprived of his pensionary benefits. By the order dated 03.07.2020 the petitioner is being paid provisional pension subject to finalization of his pension case. The impugned communication does not seek to deprive the petitioner of such retirement benefits. Thus as the petitioner has superannuated without being placed on a supernumerary post, there is no reason to withhold his pensionary benefits. In that view of the

matter, the petitioner is entitled for the relief of grant of retirement benefits.”

8. The Hon'ble Bombay High Court, Bench at Nagpur in the case of ***Shri Ashok N. Shelgenwar Vs. the Accountant General (A&E), Nagpur & Ors.*** has recorded its finding in para-5 as under -

“(5) Having heard the learned counsel for the parties and having perused the documents on record we find that though the petitioner's caste claim was referred to the Scrutiny Committee while he was in service, the same was adjudicated only on 2.11.2020 which is after his retirement on 31.10.2020. In other words, till the date of petitioner's superannuation his claim has not been invalidated. There is no order passed by any authority depriving the petitioner of his retiral benefits. As held by the Hon'ble Supreme Court in the case of Jitendra Kumar Srivastava and another (supra) withholding of pensionary benefits has to be supported by a statutory order in that regard. Similar view has been taken in R Sundaram (supra). In absence of any such order the petitioner is not liable to be deprived of his pensionary benefits.”

9. The applicant was not also kept on supernumerary post. The applicant retired in the year 2017. Till the date of retirement there was no decision of caste scrutiny committee about the invalidation of caste certificate of applicant. Hence, in view of above cited Judgments, the applicant is entitled for pension and pensionary benefits. Therefore the impugned order dated 24/06/2020 is liable to be quashed and set aside. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The impugned order dated 24/6/2020 issued by respondent no.3 is hereby quashed and set aside.

(iii) The respondents are directed to pay pension and pensionary benefits to the applicant within a period of four months from the date of receipt of this order.

(iv) No order as to costs.

Dated :- 08/07/2024.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 08/07/2024.