

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.825 OF 2015
(Subject : Promotion)**

DISTRICT : KOLHAPUR

Smt. Sujata Bhimrao Bagadi)
259-E, Behind Collector Office,)
Opp. Aishwarya park, Kanan Nagar,)
Kolhapur.) **..APPLICANT**

VERSUS

1. The State of Maharashtra,)
Through Secretary,)
Water Resources Department,)
Mantralaya, Mumbai 32.)
(Copy to be served on the C.P.O.)
M.A.T., Mumbai.))
2. The Superintending Engineer,)
Koyana Construction Circle &)
Zonal Officer, Kolhapur Zone,)
Satara.)
3. Mr. D.C. Bhoje,)
Stenographer (Lower grade),)
Kolhapur Irrigation Circle,)
Kolhapur.)

....RESPONDENTS

Shri S.D. Dhongade, learned Counsel for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN
SHRI R.B. MALIK, MEMBER(J)

DATE : 24.11.2016.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

J U D G M E N T

1. Heard Shri S.D. Dhongade, learned Counsel for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking deemed date of promotion to the post of Lower Grade Stenographer w.e.f. 28.06.2013.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as Junior Clerk in the office of Conservator of Forests, Kolhapur on 09.03.2004. She was appointed from NT-B Category and her Caste Certificate was validated by Caste Scrutiny Committee Belgaum, Karnataka on 26.02.2004. Learned Counsel for the Applicant stated that the Applicant belongs to Caste 'Bhoi', which is recognized as O.B.C. by Government of India, both in Karnataka & Maharashtra as per order dated 13.09.1993. For Karnataka, it is in Category B-44, while in Government of India, it is in Category 93. For Maharashtra, it is in NT-25 in State List,

while in Category 37 of the Central list. Learned Counsel for the Applicant contended that the Applicant is a permanent resident of Maharashtra, and has a Caste Certificate dated 03.08.1993, issued by the Tahsildar & Executive Magistrate, Haveli, District Pune. The said certificate has been sent for verification to the Caste Scrutiny Committee, Kolhapur by Conservator of Forests, Kolhapur on 24.01.2008, where it is still pending. Learned Counsel for the Applicant argued that the Applicant was allowed to apply for the post of Steno-typist in Koyna Construction Circle, Kolhapur of the Water Resources Department by the Conservator of Forest, Kolhapur. She was appointed by the Respondent No.2 to the post of Steno-typist by order dated 21.01.2009. On the basis of date of joining the post of Steno-typist, the Applicant is senior to Shri Bhoje and Shri R.V. Rathod. Shri Bhoje has been promoted as Lower Grade Stenographer by order dated 28.06.2013. The Applicant cannot be denied promotion to the post of Lower Grade Stenographer, as her claim for validate of certificate is pending before Scrutiny Committee, Kolhapur. This Tribunal, in such cases, has ordered that promotion cannot be denied for want of Caste Validity Certificate.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant has admitted that she has a Caste Certificate from Karnataka State and also a Caste Validity Certificate from that State. However, the Caste mentioned in the certificate is 'Hindu Bhovi' and not 'Hindu Bhoi'. Caste 'Bhovi' is not recognized as NT-B in Maharashtra. As the Applicant has not been able to produce

Caste Validity Certificate from Maharashtra State, she is not eligible to be given promotion as per G.R. dated 16.06.2008. The State Government has issued Government Circular dated 24.08.1995, wherein it has been clarified in para (3) that if a person from any other State, belongs to a Caste which is recognized as backward in Maharashtra, he cannot claim any benefits of that Caste on the basis of certificates issued by any competent authority outside Maharashtra. In the present case, Caste Validity Certificate issued by Karnataka authority will not entitle the Applicant to claim benefits on the basis of such certificate in Maharashtra. Learned P.O. relied on the judgment of Hon'ble Allahabad High Court in the case of **Mohd. Hassan Jafri Vs. The Director of Higher Education, U.P. & Others in Miscellaneous Writ Petition No.26044 of 2000.**

5. In the present case, the Applicant was appointed as Junior Clerk by order of Conservator of Forests, Kolhapur by order dated 06.01.2004. From the copy of letter dated 27.01.2004 sent by the Deputy Conservator of Forests, Kolhapur to the District Officer, Backward Classes & Minorities, Belgaum (Karnataka State), it appears that the Applicant's Caste Certificate was sent for verification to authorities in Karnataka. The Applicant has placed on copy of validity certificate issued by Deputy Commissioner, Belgaum, English translation of which appears at Exhibit 'B' (P 12 of the paper book). As per 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) which was notified on 18.10.2001, the Caste Certificate of a person seeking appointment under Maharashtra Government has to be validated by the Scrutiny Committee. The Government Circular dated 24.08.1995, Exhibit R-1 (on page 140 of the paper book) reads as follows :-

“3. महाराष्ट्र राज्यात व अन्य राज्या समान जाती आढकून येतात अशा जातीपैकी एखाद्या समान असलेल्या जातीचे प्रमाणपत्र महाराष्ट्राबाहेरील राज्यातील सक्षम प्राधिकार-याने दिलेले असल्यास त्या प्रमाणपत्र घारकास हया राज्यातील कोणतेही फायदे प्राप्त होणार नाहीत.”

As such, the Caste Validity Certificate issued by Karnataka Authorities cannot be said to be valid in Maharashtra.

In the case of Mohd. Hassan Jafri (supra), Hon'ble Allahabad High Court has held :

“25 In order to obtain benefit of reservation in any State, the person should be ordinary resident of that State; and he should produce a certificate from an officer/ Authority as indicated by that State.” (emphasis added).

In the case of **Tapas Kumar Sonwane Vs. Chhatisgarh State Electricity Board and others, by order dated 11.11.2014 in Writ Petition No.3060 of 2003,** Hon'ble High Court of Chhatisgarh has held that a Scheduled Tribe candidate in State of Madhya Pradesh is not entitled to claim benefit of reservation for that category in State of Chhatisgarh. These judgments also support the case of the

Respondents that Caste Validity Certificate from Karnataka will not be valid in Maharashtra.

In the present case, the Applicant has produced Domicile Certificate (subsequently discussed) and she can be said to be an ordinary resident of Maharashtra. However, she has to produce Caste Certificate and Caste Validation Certificate from Competent authorities in Maharashtra. She has not produced Caste Validity Certificate from Competent authority in Maharashtra.

The Applicant obviously is not eligible to get benefit of NT-B Category, on the basis of Caste Certificate and Caste Validation Certificate issued by Competent Authorities in Karnataka and has to produce such certificate from Maharashtra authorities.

6. It is seen that the Applicant has a caste certificate of NT-B category issued by Tahsildar and Executive Magistrate, Haveli, District Pune dated 03.08.1993. The copy of said certificate is at page 14 of the paper-book. The Applicant has produced Domicile certificate dated 05.10.2007 (page 117 of the paper book) issued by Executive Magistrate, Karveer, District Kolhapur, showing that she is domiciled in the State of Maharashtra. She had applied to Conservator of Forests, Kolhapur on 23.01.2008 (page 128 of the paper-book) requesting that her case for validation of caste certificate may be sent to Caste Scrutiny Committee. By letter dated 24.01.2008, the case was sent by the Conservator of Forests,

Kolhapur to the Caste Scrutiny Committee, Kolhapur for validation of Caste Certificate of the Applicant on 24.01.2008 (page 129 of the paper book). From these documents, it appears that the case of the Applicant for validation of Caste Certificate is still pending with the Scrutiny Committee. The case of the Applicant that her Caste Validation Certificate issued by Karnataka authorities may be held to be valid cannot be accepted. As this O.A. is mainly filed on the basis of certificates issued by Karnataka authorities, prayer of the Applicant cannot be granted. She may, however, approach the Caste Scrutiny Committee for expediting her case of validation of Caste Certificate issued by Tahsildar, Haveli, District Pune on 03.08.1993 and if the same is validated, only then she will be entitled to claim benefits of belonging to NT-B category. We refrain from making any comments on validity or otherwise of her caste certificate dated 03.08.1993.

7. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-

**(R.B. MALIK)
MEMBER(J)**

Sd/-

**(RAJIV AGARWAL)
VICE-CHAIRMAN**

**Place : Mumbai
Date : 24.11.2016
Typed by : PRK**