

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.401 OF 2022

DISTRICT : NASHIK

Shri Anil Jayvant Bavaskar,)
Age 47 years, Occ. Service (Terminated),)
R/o Ganesh Nagar, Niphad, Tal. Niphad, Dist. Nashik)..Applicant

Versus

1. The State of Maharashtra,)
Through its Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400032)
2. The Sub-Divisional Officer,)
Niphad Sub-Division, Niphad, District Nashik)..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
RESERVED ON : 15th April, 2024
DATE : 25th April, 2024
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. By invoking Section 19 of the Administrative Tribunals Act, 1985 the applicant who was working as Talathi is challenging the termination order dated 31.12.2021 of the applicant issued by the respondent no.2 and seeks directions to respondent no.2 to allow him to work as Talathi on supernumerary post in view of GRs dated 21.12.2019, 15.6.2020, 27.11.2020 and 28.10.2021.

Brief facts:

2. The applicant who was working as Talathi in the office of respondent no.2 – Sub-Divisional Officer (SDO), Niphad was terminated by respondent no.2 on the ground of invalidation of the caste claim as Scheduled Tribe by the Caste Scrutiny Committee. The applicant was appointed as Talathi by order dated 16.6.1999 against the Scheduled Tribe category by respondent no.2 and an entry to that effect was taken in his service book. The applicant had produced the caste certificate issued by Executive Magistrate dated 2.6.1994 that he belongs to Koli Mahadev, Scheduled Tribe. In view of circular dated 18.5.2013 a proposal for verification of his caste claim was referred to Scheduled Tribe Certificate Scrutiny Committee, Amravati. After due enquiry the committee has invalidated the caste claim of the applicant as belonging to Scheduled Tribe by order dated 4.3.2020. The applicant subsequently requested respondent no.2 to place his services on supernumerary post in view of the policy decision of the Government. However, respondent no.2 issued a show cause notice dated 7.7.2020 as to why action should not be taken against him as per the provisions of Section 10 and 11 of the Maharashtra Act No.XXIII of 2001.

3. Ld. Advocate for the applicant pointed out that the applicant submitted reply to show cause notice on 17.7.2020 and requested them not to terminated the services in view of GR dated 21.12.2019 by which the State Government on humanitarian ground has taken a policy decision not to terminate the services of employees who have been appointed from the ST category but put them on supernumerary post for 11 months or till the date of retirement whichever is earlier. Ld. Advocate for the applicant pointed out that without considering the GRs dated 21.12.2019, 15.6.2020, 27.11.2020 and 28.10.2021 the services of the applicant were terminated on the basis of decision of the committee invalidating his Tribe Claim. He refers to the policy decision of the State Government to accommodate services of employees on supernumerary post who are appointed prior to 17.10.2001, even if they have not submitted the validity certificate.

4. Ld. CPO opposes the contentions of the Ld. Advocate for the applicant and she relied on the affidavit in reply dated 12.8.2022 filed by Dr. Archana Shivajirao Pathare, SDO, Niphad, District Nashik. She pointed out that the State Government had issued a letter dated 9.12.2021 which by adopting the findings in the judgment of the Hon'ble Supreme Court in Civil Appeal No.8928/2015 decided on 6.7.2017 **Chairman & Managing Director, FCI & Ors. Vs. Jagdish Balaram Bahira & Ors., AIR 2017 SUPREME COURT 3271, 2017 (8) SCC 670**, by their letter dated 9.12.2021 has conveyed that the employees who entered in Government service on the basis of backward caste certificate but their caste claim was later turned down/ invalidated by the Caste Scrutiny Committee are not eligible for protection. Further the Hon'ble Bombay High Court on the basis of the decision of the Hon'ble Supreme Court has directed to act on the judgment by 31.12.2019 and accordingly

the State Government has issued the GR dated 21.12.2019 for implementation of the judgment of the Hon'ble Supreme Court.

5. Ld. CPO submitted that the caste claim of the applicant has been invalidated by the Caste Scrutiny Committee, Amravati by their order dated 4.3.2020 i.e. after the date of 31.12.2019 as directed by the Hon'ble Supreme Court. Hence, the applicant was not found eligible for appointment on supernumerary post and therefore by order dated 31.12.2021 respondent no.2 has terminated the services of the applicant. She also pointed out that the applicant had approached the Hon'ble Bombay High Court in W.P. No.1437/2022 who by their order dated 12.4.2022 directed the applicant to exhaust the alternate remedy.

6. In this case the facts are crystal clear. The applicant who was working as Talathi had been appointed against the ST category. However, the caste claim of the applicant was turned down/invalidated by the Caste Scrutiny Committee, Amravati by their order dated 4.3.2020. The committee by the abovementioned order had further directed for taking action under Section 10 and 11 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. It is seen that respondents have followed the procedure and issued the show cause notice to the applicant dated 7.7.2020 asking him as to why action under Section 10 and 11 of the Act, 2000 and Section 8 and Rule 5(1)(9) of the MCS (Discipline & Appeal) Rules, 1979 should not be taken against him. The respondents have correctly taken a decision of terminating the services of the applicant on account of judgment passed by the Hon'ble Supreme Court in Civil Appeal No.8928/2015 Chairman & Managing Director, FCI & Ors. Vs. Jagdish Balaram Bahira & Ors., and GRs dated

21.12.2019 and 30.6.2020. It is noted that the Hon'ble Bombay High Court on the basis of the decision of the Hon'ble Supreme Court has given directions to act on the judgment by 31.12.2019 and accordingly the State Government has issued GR dated 21.12.2019 for implementation of the judgment of the Hon'ble Supreme Court. The caste claim of the applicant has been invalidated by the Caste Scrutiny Committee, Amravati by their order dated 4.3.2020 i.e. after the date 31.12.2019 as directed by the Hon'ble Supreme Court. Hence, the applicant was not found eligible for appointment on supernumerary post and his services were terminated.

7. In view of the facts and circumstances of the case, we do not find any merit in the submissions of the Ld. Advocate for the applicant and the OA deserves to be dismissed.

8. The Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
25.4.2024

Sd/-

(Mridula Bhatkar, J.)
Chairperson
25.4.2024

Dictation taken by: S.G. Jawalkar.