

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 73/2020(D.B.)**

Girish Yashvantrao Kharbikar,
Aged about Major, Occu: service,
R/o Golibar Chowk Nagpur,
Tq. and Distt. Nagpur.

Applicant.

Versus

1. The State of Maharashtra,
through its Principal Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. The Divisional Joint Registrar,
Co-Operative Societies (Audit),
Nagpur, Division Nagpur.

Respondents.

Shri A.S.Deshpande, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &
Hon'ble Shri Nitin Gadre, Member (A).

Dated:- 11th October, 2024.

JUDGMENT

Heard Shri A.S.Deshpande, learned counsel for the
applicant and Shri M.I.Khan, learned P.O. for the Respondents.

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

The applicant was appointed as nominee of Freedom Fighter as per order dated 15.03.1995. He was promoted as Auditor Grade-II on 15.01.2010 in Special Backward Category (SBC). Thereafter, he was promoted as Auditor Grade-I as per order dated 30.09.2013 in Special Backward Category (SBC). The applicant was directed to produce Caste Validity Certificate. The applicant approached to the Caste Scrutiny Committee. Caste Scrutiny Committee has invalidated the claim of applicant of Scheduled Tribe (S.T.). Therefore, the respondent no.2 has issued the impugned order dated 27.12.2019 by which the applicant is kept on supernumerary post of 11 months.

3. Reply is filed by the respondents. It is submitted that the applicant was appointed in a reserved category (S.T.). The caste claim of the applicant of Halaba is invalidated by the Caste Scrutiny Committee. Therefore, respondent no.2 has issued the impugned order as per G.R. dated 21.12.2019. Therefore, the O.A. is liable to be dismissed.

4. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Bombay High Court in the case of **Suryakant C. Koturkar Vs. State of Maharashtra & Ano., 2023 (3) Mh.L.J., 653** and the Judgment of this Tribunal in O.A.No.112/2024 and 113/2024

decided on 13.09.2024 and 06.08.2024 respectively. As per Judgment of the Hon'ble High Court in case of Surykant, there was / is no necessity for the employee / candidate who was appointed as nominee of Freedom Fighter, to produce Caste Validity Certificate. It is held by the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Suryakant C. Koturkar Vs. State of Maharashtra & Ano., 2023 (3) Mh.L.J., 653** that keeping the employees / candidates on supernumerary post because of invalidation of caste claim of Scheduled Tribe is not legal and proper. This Tribunal has also held in the above cited O.As. that the applicants/employees who were appointed as nominee of Freedom Fighter need not to produce Caste Validity Certificate.

5. In the present O.A., the applicant was appointed as nominee of Freedom Fighter. The applicant was promoted in Open category on the post of Auditor Grade-I. The caste claim of the applicant of Scheduled Tribe (S.T.) is invalidated by Caste Scrutiny Committee. There is no necessity for the applicant to produce Caste Validity Certificate because he was not appointed in a reserved category of Scheduled Tribe (S.T.). The applicant was appointed as nominee of Freedom Fighter and therefore in view of the Judgment cited above the impugned order dated 27.12.2019 is not legal and proper. Hence, we proceed to pass the following order-

ORDER

1. The O.A. is allowed.
2. It is held that provisions of G.R. dated 21.12.2019 by which the applicant is kept on supernumerary post is not applicable to the applicant.
3. The impugned order dated 27.12.2019 issued by the respondent no.2 is hereby quashed and set aside.
4. The respondents are directed to grant consequential benefits to the applicant.
5. No order as to costs.

(Nitin Gadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 11/10/2024.
rsm.

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

Name of Steno : Raksha Shashikant Mankawde.
Court Name : Court of Hon'ble Vice Chairman
& Hon'ble Member (A).
Judgment signed on : 11/10/2024.
and pronounced on
