



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1904/2023

Ramsing s/o Dasarathsingh Chauhan

...Versus...

**The State of Maharashtra, Through its Secretary, Medical Education and Drugs
Department, Mantralaya, Mumbai – 32 and another**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. S.P. Palshikar, Advocate for petitioner
Mr. A.S. Fulzele, Addl. G.P. for respondent nos.1 and 2

**CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATE : 22/08/2024

1. The petition questions the judgment of the Maharashtra Administrative Tribunal, dated 04/07/2022, where the challenge to the denial of pensionary benefits to the petitioner, on account of his tribe claim of belonging to the Scheduled Tribe 'Thakur' having been invalidated by the Caste Scrutiny Committee by the order dated 03/01/2012, which in absence of challenge by the petitioner, had attained finality, an enquiry in the matter was initiated, however, before the same could be completed, the petitioner superannuated on 31/10/2013, has been rejected.

2. Mr. Palshikar, learned counsel for the petitioner submits that in terms of the Government Resolution dated

21/12/2019, the petitioner ought to have been placed on a supernumerary post for 11 months and only thereafter action of withdrawal of pensionary benefits could have been initiated. Since this was not done, the denial of the pensionary benefits, according to him, is unjustified. In support of his submissions, learned counsel for the petitioner places reliance upon *Namdeo s/o Dashrath Nikhare Vs. Secretary, Public Works Department, Mantralaya, Mumbai-32 [Writ Petition No.547/2021 decided on 23/03/2022]* and *Ms. Shalini d/o Purushottam Bokde Vs. The State of Maharashtra, through its Chief Secretary, 6th floor, Main Building, Mantralaya, Mumbai – 400 032 and others [Writ Petition No.5706/2021 decided on 05/04/2022]*.

3. However, what is material to note is that both the judgments are based upon the Government Resolution, dated 21/12/2019 and the absence of placing the petitioner therein on a supernumerary post before denial of the pensionary benefits. In the instant matter it is not in dispute that the petitioner had already superannuated on 31/10/2013 on account of which, the applicability of the Government Resolution, dated 21/12/2019 would not arise and therefore, the claim that the pensionary benefits were denied to the petitioner without placing him on a supernumerary post, is clearly untenable. The plea therefore is rejected.

4. Mr. Palshikar, learned counsel for the petitioner thereafter submits that in spite of the fact that the Rules of employment permit continuation of the enquiry post

superannuation and denial of the pensionary benefits is depending upon its result, no such thing is done, as in spite of the enquiry having been initiated it was not carried forward, post the superannuation of the petitioner on 31/10/2013. He, therefore, submits that on this count, the retiral benefits cannot be denied to the petitioner. He, however, seeks some time to place on record the Rules governing the position in this regard.

5. Regard has also to be had to the language and effect of Section 10 of the Maharashtra Scheduled Caste, 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 mandates that in case the caste/tribe claim is found to be false, the benefit secured on its basis needs to be withdrawn.

6. List the matter on 28/08/2024.

(SMT. M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)