

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

...

WRIT PETITION NO.2566/2016

Sharad s/o Wasudeo Gonnade
Aged about 44 years, occu: service
R/o Near Marathi Uchcha Primary
School, Sitabuldi,
Armori, Tah.Armori, Dist.Gadchiroli.

..PETITIONER

v e r s u s

- 1) Vice-Chairman and
Joint Commissioner,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
- 2) Deputy Conservator of Forest
Wadsa Forest Division, Wadsa
Dist.Gadchiroli.
- 3) Headmaster
Mahatma Gandhi Higher Secondary
School, Armori, Dist. Gadchiroli
(Res.No.3 deleted as
per Court's order dated 3.5.2016.)

...RESPONDENTS

.....
Mr. S. R. Narnaware, Advocate for petitioner
Mr. S.M. Ghodeswar, Assistant Government Pleader for Res. Nos.1 &2
.....

CORAM: **SMT. VASANTI A. NAIK &**
SMT. SWAPNA JOSHI, JJ.

DATED : 22nd June, 2016

ORAL JUDGMENT: (PER SMT.VASANTI A. NAIK, J.)

Rule. Rule made returnable forthwith. The petition is heard

finally at the stage of admission, with the consent of the learned counsel for the parties.

By this Writ Petition, the petitioner seeks the protection of his services, in view of the law laid down by the Full Bench of this Court, in the judgment reported in 2015 (1)Mh.L.J. 457.

The petitioner was appointed as a Forest Guard, on a post reserved for the Scheduled Tribes on 17.7.1995. The caste claim of the petitioner was referred to the Scrutiny Committee, for verification. The Scrutiny Committee has, by the order dated 25.1.2016 invalidated the claim of the petitioner of belonging to 'Halba' Scheduled Tribe. The petitioner had initially challenged the order of the Scrutiny Committee but the petitioner has now given up the said prayer and has sought the protection of his service, in view of the judgment of the Full Bench, as the petitioner was appointed before the cut off date and there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently sought the benefits meant for the 'Halba' Scheduled Tribe.

Shri S.M. Ghodeswar, the learned Assistant Government Pleader appearing on behalf of the respondents, does not dispute that the petitioner was appointed before the cut off date in the year 1995 and there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently sought the benefits meant for the 'Halba' Scheduled Tribe. It is stated that an appropriate order may be passed in the case of the petitioner.

On hearing the learned counsel for the parties and on a perusal of the order of the Scrutiny Committee, we find that the services of the petitioner are required to be protected. The petitioner was admittedly appointed before the cut off date and there is no adverse observation against the petitioner in the order of the Scrutiny Committee, except that the petitioner does not belong to 'Halba' Scheduled Tribe. Since both the conditions that are required to be satisfied while seeking protection of services, stand satisfied in the case of the petitioner, the services of the petitioner are required to be protected on the post of Forest Guard.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The respondent no.2 is directed to protect the services of the petitioner on the post of Forest Guard, on the condition that the petitioner submits an undertaking before the respondent no.2 and also in this Court within a period of four weeks that neither the petitioner nor his progeny would claim the benefits meant for 'Halba' Scheduled Tribe, in future.

Rule is made absolute in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE

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