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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4022 OF 2023

1. The General Manager Telecom,
Bharat Sanchar Nigam Ltd.,
Plot No.11, 12, Sanchar Sadan,
Town Centre, CIDCO, N-5,
Aurangabad – 431 003
Through Sub Divisional Engineer (Legal) (Ori.Resp.No.3)
Prasad S/o Anantrao Deshmukh,
Age: 51 years, Occu: Service
2. The Bharat Sanchar Nigam Ltd.,
Through its Chairman & Managing Director,
Bharat Sanchar Bhavan, H.C. Mathur Lane,
New Delhi – 110 001 (Ori.Resp.No.1)
3. The Chief General Manager Telecom,
Maharashtra Circle, BSNL Admin. Complex, (Ori.Resp.No.2)
Juhu Road, Santacruz (W),
Mumbai – 400 054PETITIONERS

VERSUS

1. Shantilal s/o Bhagchand Barwal,
Age: 60 years, Occu: Retired,
R/o. Plot No.29, Survey No.156-5, (Ori. Applicant)
Near Pinakeshwar Shoppe, Jalgaon Road,
Harsul, Aurangabad
2. The Controller of Communication,
Accounts, Maharashtra Circle, (Ori.Resp.No.4)
BSNL Complex, 3rd Floor,
“C” Wing, Santacruz (W),
Mumbai-400 054RESPONDENTS

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AND



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WRIT PETITION NO.12063 OF 2023

1. The General Manager Telecom,
Bharat Sanchar Nigam Ltd.,
Telephone Bhavan, First Floor,
Opposite Collector Office,
Vazirabad, Nanded,
Through Assistant General Manager (Admn.), (Ori.Resp.No.2)
Meduri Mruthyunjaya Srikanth,
S/o MV.S. Suryanarayana,
Age: 48 years, Occu: Service
2. The Bharat Sanchar Nigam Ltd.,
Through its Chairman & Managing Director,
Bharat Sanchar Bhavan, H.C. Mathur Lane,
New Delhi – 110 001 (Ori.Resp.No.1)
3. The Chief General Manager Telecom,
Maharashtra Circle, BSNL Admin. Complex, (Ori.Resp.No.2)
Juhu Road, Santacruz (W),
Mumbai – 400 054PETITIONERS

VERSUS

1. Bhaskar s/o Pandurang Janmale,
Age: 60 years, Occu: Retired,
R/o. Infont of Shivaji College, (Ori. Applicant)
Renapur, Taluka – Renapur,
Dist. Latur – 413 527
2. The Controller of Communication,
Accounts, Maharashtra Circle, (Ori.Resp.No.4)
BSNL Complex, 3rd Floor,
“C” Wing, Santacruz (W),
Mumbai-400 054RESPONDENTS

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Mr Shyam C. Arora, Advocate for Petitioners

Mr R. T. Diwate and Mr Mohsin Khan, Advocates for Respondent

No.1

Mr Ajay G. Talhar, Advocate for Respondent No.2

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**CORAM : KISHORE C. SANT
AND
SUSHIL M. GHODESWAR, JJ.**

**RESERVED ON : 08th APRIL 2026
PRONOUNCED ON : 20th APRIL 2026**

JUDGMENT (PER : SUSHIL M. GHODESWAR, J.)

1. Heard Learned Advocate Mr Arora for the petitioners, learned Advocates Mr Diwate and Mr Mohsin Khan for respondent No.1 and learned Advocate Mr Talhar for respondent No.2.

2. Rule. Rule made returnable forthwith. By consent of learned Advocates for the respective parties, being heard for final disposal.

3. Since in both the writ petitions, the order dated 02/01/2023, passed by the learned Central Administrative Tribunal, Mumbai in Original Application Nos.193/2022 and 182/2022 has been assailed, both the petitions are being disposed of vide this common judgment.

4. Respondent No.1 in both the petitions are the employees of Bharat Sanchar Nigam Limited (for short 'BSNL'). They had approached the learned Central Administrative Tribunal, Bench at Mumbai, by filing aforesaid Original Applications for releasing of



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their pension, which has been withheld by the petitioner/BSNL on account of non-furnishing of their cast validity certificates.

5. Learned Member of the Central Administrative Tribunal, vide common order dated 02/01/2023, allowed both the Original Applications and held that the action of the petitioner/BSNL in withholding retiral benefits is not only discriminatory but bad in law also. Petitioner/BSNL directed to release pension and pensionary benefits alongwith ex-gratia payment to respondents/employees, within a period of four weeks from the date of receipt of certified copy of the order.

6. Mr Arora, learned Advocate for the petitioner/BSNL vehemently argued that the learned Central Administrative Tribunal committed a grave error in passing the impugned order, thereby not following the various judgments delivered by the Hon'ble Apex Court as well as the High Court. He submits that both the respondents/employees had joined as 'Regular Majdoor' in the petitioner/BSNL and were belonging to the Scheduled Tribe (ST) category. Later on, both of them were permanently absorbed in BSNL. The petitioner had sought their cast validity certificate. Though they were directed to obtain cast validity certificate, they did not approach



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the caste scrutiny committee and never submitted their caste validity certificates. They availed voluntary retirement from service of BSNL under Voluntary Retirement Scheme under BSNL VRS-2019 scheme on 31/01/2020. They were struck off from BSNL on the condition that after production of caste validity certificate, all the pensionary benefits will be paid to them. Therefore, according to him, the petitioner/BSNL is justified in withholding their pensionary benefits, and as such, the order passed by the learned Central Administrative Tribunal is illegal and the same is required to be quashed and set aside.

7. Per contra, learned Advocates Mr Diwate and Mr Khan for the respondents/employees vehemently opposed the petition and submits that respondents/employees were initially appointed in petitioner/BSNL as 'Regular Majdoor' in the year 1989 and 1991, respectively. Their appointment orders nowhere disclose that they have been appointed on the post reserved for any backward community. There is no record to show that the respondents/employees were ever appointed on the post reserved for the Scheduled Tribe category. The petitioner/BSNL, in view of the complaint lodged by the Organization for Rights of Tribal Raigad Mhasala Branch appears to have issued statement of article of charges vide annexure-I on the allegation that respondents/employees have



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secured the employment/promotion in the petitioner/BSNL by producing fake/false caste certificates. They made written complaint vide letter dated 10/12/2018 wherein they submitted list of 1097 employees alleged to have got the appointments/promotion in Scheduled Tribes/Scheduled Castes categories by producing fake/false certificates. Names of respondents/employees are appearing in the said list of employees, and therefore, they have issued instructions to the respondents/employees to approach to the Caste Scrutiny Committee for caste validation certificate, in order to prove their caste/tribe claim. The charges further states that though respondents/employees have retired, they did not comply with the office instructions and neither submitted caste/tribe validity certificates, nor applied/registered online for obtaining the same. The aforesaid inaction on the part of respondents/employees amounts to misconduct contravening the provisions of Rule 4(1) of Sub-Rule (a) and (c) and Rule 5 of the BSNL CDA Rules 2006, and therefore, by holding respondents/employees liable for action against them on the ground of not possessing genuine/validity certificate.

8. Mr Diwate and Mr Khan further vehemently submit that the petitioner/BSNL is merely relying upon the entry of the



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respondents/employees in the service book. Such entry, by no stretch of imagination, can be considered to be the appointment of the respondent No.1 on the post of reserved for Scheduled Tribe category. They further submit that the petitioners/BSNL miserably failed to point out any such recruitment process, which was undertaken by them while appointing the respondents/employees showing that respondents were appointed on the posts of reserved for the Scheduled Tribes. There is no concrete material to show that the respondents are appointed on such reserved posts. Therefore, admittedly they were not occupying the post meant for Scheduled Tribes categories. Thus, learned Advocate for respondents/employees prays for dismissal of these writ petitions.

9. Leaned Advocate Mr Arora for the petitioner/BSNL submits that respondents/employees were specifically directed to approach before the Caste Scrutiny Committee for obtaining caste validity certificate. Till date, they have neither approached the Cast Scrutiny Committee, nor obtained the cast validity certificate. In this regard, he submits that the Government of Maharashtra had issued Government Resolution dated 30/04/2016, wherein the employee himself has to apply online before the District level Caste Scrutiny for



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getting caste validity certificate. He, therefore, submits that these writ petitions may be allowed and the impugned order may be set aside.

10. With the assistance of learned AGP, we have perused the said Government Resolution dated 30/04/2016 issued by the Tribal Development Department of the State of Maharashtra. The said Government Resolution only speaks about scrutinizing the caste claim through online process. The said Government Resolution nowhere states that, henceforth all the applicants, desirous of obtaining caste validity certificates, are required to apply through online process. It says that all the applications are to be made through online process. In this regard, Section 6 sub-section (3) 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 (for short 'the 2000 Act'), reads as under :-

“6(3) The appointing authority of the Central or State Government, local authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions shall, make an application in such form and in such manner as may be prescribed by the Scrutiny Committees for the verification of the Caste Certificate and issue of a validity certificate, in case a person selected for an appointment with the Government, local authority, public



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sector undertakings, educational institutions, Co-operative societies or any other Government aided institutions who has not obtain such certificate.”

11. The aforesaid provision strictly makes it clear that it is for the employer or Head of the Institution to forward caste claim proposal to the caste scrutiny committee. Thus, it is for the Department to forward the proposal to the caste scrutiny in case the candidate is appointed on the post reserved for Scheduled Tribes or Scheduled Castes. The Government Resolution dated 30/04/2016 on which the petitioners rely, cannot be said to have overruled or superseded the provisions of the Act. Even otherwise, we do not find in the said Government Resolution that it is for the candidate to initially approach to the caste scrutiny committee for verification of his caste.

12. In these particular cases, it is to be noted here that the respondents/employees have obtained the voluntary retirement as per the Voluntary Retirement Scheme in BSNL and the said applications have been accepted by the petitioner/BSNL. Further, their pensionary benefits have not been released though they have served the department for the years, on the basis of non submission of caste validity certificates. As regards qualified service for the pensionary benefits, there is no dispute, however, since the respondents/employees



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have not submitted their caste validity certificates, petitioner/BSNL has withheld their pension.

13. It is to be noted that, recently while considering identical position by the Nagpur Bench of this Court in the judgment of **Vinayak Marotrao Mahajan Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur and others, [2026(2) Mh.L.J. 23]**, allowed the petition by placing reliance on the judgment delivered by the Hon'ble Apex Court in **State of Jharkhand and others Vs. Jitendra Kumar Srivastava and another, AIR 2013 SC 3383**, wherein paragraph 17 of the said judgment of Hon'ble Apex Court, reads thus :-

“17. It is hardly needs to be emphasised that the executive instructions are not having statutory character and, therefore, cannot be termed as “law” within the meaning of the aforesaid Article 300-A. On the basis of such a circular, which is not having force of law, the appellant cannot withhold even a part of pension or gratuity. As we noticed above, so far as statutory Rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these Rules, the position would have been different.”

14. Likewise, in the case of **Ashok Natthuppa Shelgenwar Vs. Accountant General (A & E) and others, 2023 Mh.L.J. Online 224**, it is held in paragraph Nos.5 and 6 as under :-



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5. *Having heard the learned counsel for the parties and having perused the documents on record we find that though the petitioner's caste claim was referred to the Scrutiny Committee while he was in service, the same was adjudicated only on 2.11.2020 which is after his retirement on 31.10.2020. In other words, till the date of petitioner's superannuation his claim has not been invalidated. There is no order passed by any authority depriving the petitioner of his retiral benefits. As held by the Hon'ble Supreme Court in the case of Jitendra Kumar Srivastava and another (supra) withholding of pensionary benefits has to be supported by a statutory order in that regard. Similar view has been taken in R Sundaram (supra). In absence of any such order the petitioner is not liable to be deprived of his pensionary benefits.*

6. *We find from reading of paras 72 and 73 of the decision in Jagdish Balaram Bahira and others (supra) that while considering the case of a similarly situated person it was noted that the claim of belonging to Mahadeo Koli was held to be not admissible. The payment of retiral benefits already effected was not interfered with. We find that in absence of any statutory adjudication while the petitioner was in service, he cannot be deprived of his retiral benefits.”*

15. In view of the aforesaid judgments delivered by the Hon'ble Apex Court as well as the High Court, it is crystal clear that since claim of respondents/employees as regards caste validity has never been adjudicated during the tenure of their service, petitioner/BSNL is not justified in withholding their pensionary benefits. The aforesaid judgments also made it clear that, even if the caste claim of the employee had got invalidated after retirement, still



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the employer/Department is required to grant the pensionary benefits of such employees.

16. Considering the cases of respondents/retired employees, it is found that there is no material to suggest that, at the time of appointment or their recruitment process, the posts were reserved for the Scheduled Tribe category and they were appointed on such posts. Mere taking entry of caste/tribe in the service book of respondents/employees in the midst of their service tenure is not sufficient to claim that they were appointed on reserved category posts. The petitioner/BSNL, only on the complaint of some organization of Tribal Rights, for the first time, gave notice for obtaining caste validity certificates to respondents/employees, that too, when they (respondents) completed near about 30 years of their service. The petitioner/BSNL, even till date, has not forwarded the tribe claim proposals to the Scrutiny Committee as prescribed under Section 6(3) of the 2000 Act. The respondents/employees have opted for voluntary retirement scheme on 31/01/2020 introduced by the petitioner/BSNL on 04/11/2019. As discussed earlier, no statutory order has been shown by the petitioner/BSNL for withholding the pensionary benefits of respondents/employees as per the dictum of the Hon'ble Apex Court in the judgment of **State of Jharkhand and others** (supra).



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17. In view of above discussion, we are of the view that the order dated 02/01/2023, passed by the learned Central Administrative Tribunal, Mumbai is perfectly legal and correct, and hence, we accordingly maintain the same by dismissing these both writ petitions.

As such, we pass the following order :-

ORDER

- (I) Both these writ petitions are dismissed.
- (II) Petitioner/BSNL is directed to finalize the regular pension case of respondent No.1 in both the petitions within a period of four weeks from the date of uploading of this order and release the regular pension and pensionary benefits including all the consequential benefits and arrears to them, in accordance with law.
- (III) No order as to costs.

18. Rule is discharged.

[SUSHIL M. GHODESWAR, J.]

[KISHORE C. SANT, J.]

sjk