



कर्मचारी भविष्य निधि संगठन  
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)  
Employees' Provident Fund Organisation  
(Ministry of Labour & Employment, Govt. Of India)  
मुख्य कार्यालय/Head Office

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No. HRM-IV-4(23)/2019/

Dated:

03 JUL 2020

To

All Addl. Central P.F. Commissioners (Zones)  
All Regional P.F. Commissioner, In-Charge of the Region

**Subject:-**Settlement of disputes relating to employees belonging to Halba/Halba Koshti/Koshti caste appointed against the vacancies reserved for the Scheduled Tribes - regarding.

Sir,

As you are aware, the issue relating to verification of Caste Certificate in respect of Halba/Halba Koshti/Koshti caste/community and its validation, non-submission of documents for verification of the caste/tribe claims by a number of employees has been persisting for a long time. Though, in Pursuance of directions issued by Head Office, caste certificates were got validated by most of the officials, a number of officials failed to get their caste validated and submit the requisite certificate. A number of such cases in respect of the officials belonging to Maharashtra were referred by the concerned Regional/Zonal Office to Head Office for seeking guidance as how to regulate the retirement benefits in respect of such officials who have already retired on attaining the age of superannuation. It has also been reported that some of the officials have already expired but their retiral benefits have not been released

2. Keeping the above facts in view and in order to resolve the problem, the matter relating to scrutiny of Caste Certificate etc. has been examined in consultation with Legal Division and the following has been observed:

“The validity of Scheduled Tribes status of individuals belonging to "Halba Koshti" caste has a long legal history. The matter first came to be considered by a five Judges Constitution Bench in State of *Maharashtra Vs. Milind* [2001]. Vide its judgment dated 28.11.2000 the Hon'ble Apex Court allowed the appeal preferred by the State of Maharashtra and declared the ST status of the respondent as void. However, the benefit accrued to the respondent as an ST candidate (MBBS degree) was protected. The judgment in *Milind* has been applied by subsequent Benches to allow the benefits accrued to similarly placed individuals by treating the date of judgment in *Milind* (28.11.2000) as the cut off date. The latest judgment in this series is Division Bench judgment in *Gajanan Marotrao Nimje Vs. RBI* (Civil Appeal No. 10396/2018 decided on 11.10.2018. wherein the court has held thus: -

"12. Therefore, these appeals are disposed of as follows: -

In partial modification of the impugned judgments, it is ordered that all the appellants shall be placed below the last of the general category candidate as on 28.11.2000 and will be continued as such till their superannuation. All the benefits which the appellants earned as reserved' category candidates after 28.11.2000 will be surrendered/ recovered. After 28.11.2000 the benefits available to the reserved category candidates will be given to the members of the reserved category regarding whom there is no dispute. There shall be no recovery of any benefits from the employees who are already superannuated. Action, if any, taken pursuant to the impugned judgment(S) will stand recalled and modified to the extent indicated hereinabove.

Needless to say that the notification dated 24.12.2013 will be appropriately reconsidered."

3. The verdict in *Gajanan supra*, is unequivocal in its pronouncement to the effect that there shall be no recovery of any benefits from the employees who are already superannuated. It, therefore, follows that all the individuals whose accrued benefits were protected by *Milind*, would also become eligible to receive the superannuation benefits till pronouncement of *Gajanan*. In fact the judgment in *Gajanan*, is a natural corollary to the position laid down in *Milind*. In the present cases referred to Head Office, the employees in question were undisputedly protected by the Constituent Bench judgment in *Milind*. The case record indicates that sufficient opportunities were provided to them to get the caste certificate validated through the statutory mechanism. The same, however, does not appear to have been done till their retirement in October-November, 2018. An adverse presumption therefore can be drawn against such employees in respect of their ST status. Such employees will require to be treated as general candidates after 28.11.2000.

4. A conjoint reading of *Milind* and *Gajanan* would, therefore, indicate the following position of law:-

(i) Employees whose caste certificates are validated by the Scrutiny Committee constituted under the *The Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000*, would be considered as bonafide ST candidates and all benefits accrued to them would continue.

(ii) Employees whose ST Certificates are invalidated by the said committee would be allowed the protection afforded in *Milind* that is to say that their service would be protected. Such employees, however, would be treated as general candidates from 28.11.2000, which is the date of pronouncement of Judgment in *Milind* and such employees would be required to surrender all benefits accrued to them after 28.11.2000 as ST candidates.

(iii) The employees appointed after 28.11.2000 would not be eligible for any protection in terms of *Milind* in the event of invalidation of ST certificates by the statutory screening committee. Such appointments would be *non-est* and *void ab initio*.

(iv) In terms of judgment of Gajanan, supra, no recovery of any benefit is required to be made from the employees who had already superannuated before 11.10.2018.

5. In view of above, it has been viewed that the position of law as emerging from the Supreme Court judgments as also the Government of India instructions contained in the DOPT's O. M. No.36012/12/2013-Estt.(Res) dated OM dated 08.04.2019 should regulate all cases of caste disputes in accordance with the above observations.

6. Further, as regards the cases the employees who have retired after 11.10.2018, none of them stands covered by the protection made in *Gajanan*. The ST status in respect of such employees would stand revoked with effect from 28.11.2000 as a consequence non validation of ST certificates and all benefits granted to them thereafter as ST candidates are liable to be recovered out of the pensionary benefits eligible to them. Any direction to the contrary would be in violation of the Supreme Court directions and will create a binding precedent for us in the cases which are yet to be decided.

7. Similar action is also required to be taken in respect of serving employees who despite sufficient opportunities being provided to them have failed to get their ST certificates verified through the statutory mechanism. In case the validation takes place at a later date, the benefits would obviously get restored.

8. All the cases involving disputes relating to caste validation may be disposed of accordingly in view of the above.

This issues with the approval of the Competent Authority.

Yours faithfully,



(Uma Mandal)

Addl. Central P. F. Commissioner (HRM)

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(S.C. Sharma)  
RPFC-I(HRM)