

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision : 28th February, 2011

+ **W.P.(C) No. 140/2010**

HC RPF MANOJ KUMAR MEENA Petitioner
Through: Mr.S.P.Chakravorti,
Advocates.

versus

UOI & ORS. Respondents
Through: Mr.J.P.Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

SURESH KAIT, J.(Oral)

1. The petitioner being aggrieved by the dismissal order dated 18.07.2008 and appellate order dated 19.01.2009, has challenged the same by the instant writ petition. The petitioner applied for the post of constable in the Railway Protection Force vide application at page No. 138 of the writ petition and in column No.10 he filled up as under:-

"10. Do you belong to SC/ST/OBC Yes/No : ST"

2. In addition to the aforesaid application he had filed declaration dated 03.10.1998 as under:-

"I hereby declare that the statements made in this application are true and correct. I also understand that in the event of any statement or document attached is/are found false or incorrect, it should disqualify my candidature

and if detected after my appointment my services will be liable to be terminated without notice.

*Date : 3.10.98
Place KHANDORA*

*Sd/- Manoj Kumar
Signature of
Candidate"*

3. Vide letter dated 16.11.1999 the respondents conveyed his appointment as constable in the scale of ₹3050- ₹4590 (NPS) subject to passing of medical examination and initial training. In column No. 2 of the aforesaid letter it is mentioned as under:-

"2. Before you are sent for initial training for a short period, you are required to undergo the prescribed medical test in B-I. You are, therefore directed to report to this office on 25.11.99 at 10:00 hours along with the following original certificates.

i) Education qualification certificates showing date of birth with one attested copy of each certificate.

ii)Caste Certificate issued by the competent authority in case of SC/ST.

iii) Hillman certificate, if any in case Hillman.

iv) Three copies of your latest passport size photographs duly attested by a Gazetted Officer.

v) Character Certificate of two Gazetted Officers.

vi) Any other certificate."

4. Somehow, the petitioner did not submit his Scheduled

Tribe certificate. On checking his documents, the respondent came to know of the defect of the petitioner of not submitting his Scheduled Tribe certificate issued by the competent authority.

5. Vide communication dated 25.11.1999 the respondents sent a communication petitioner as under:-

"You have not submitted Schedule Tribe Certificate in this office.

You produce Schedule Tribe Certificate issued by concerned officer in this office by 29.11.1999."

6. Accordingly, the petitioner submitted his caste certificate issued by Sub Divisional Officer (Civil) Rewari dated 29.11.1999 as under:-

"CASTE CERTIFICATE

(For use in educational institution or otherwise)

It is certified that Sh. Manoj Kumar, S/o Sh. Bharat Singh, R/o Vill. & P.O. Khandora, Teh. Bawal, Rewari (Hy) is Schedule Tribe.

His caste is Meena (ST).

S. No. – 203980

Date – 29.11.99

Sd/-

29/11/99

*Sub Divisional Officer (Civil)
Rewari
Designation & Stamp"*

7. Additionally, the petitioner had also submitted 'Attestation Form' dated 27.11.1999 duly attested by Head Master, Government High School, Tankari, Rewari(Haryana).

Contents of para-3 of the same read as under:

"3. If the fact that false information has been furnished or that has been suppression of any factual information in the attestation form comes to notice at any time during the service of a person his service would be liable to be terminated."

8. Against para 9(b) of the said 'Attestation Form' was written – S.T. The petitioner earned promotion to the post of Head Constable vide order dated 14.10.2005. Till this time the petitioner had a very smooth tenure. However, the problem arose when the respondents sent a communication dated 12.06.2007 to SDO (Civil) Rewari for verification of the aforesaid caste certificate submitted by the petitioner. In response to the said communication, the Sub Divisional Officer (Civil) Rewari, vide his communication dated 12.04.2007 informed the Divisional Security Railway Protection Force, Firozpur Cantt as under:-

"Sub : Verification of Caste Certificate No. 203980/203981 dated 29/11/99.

With reference to your office letter RPF//E/FZP/07 dated 12.9.07.

In above subject it is requested that caste certificate No. 20381 dated 29/11/99 of applicant Krishan Kumar S/o Dalu Ram R/o Khandera and caste certificate No. 203980 dated 29/11/99 of Sh. Manoj Kumar S/o Bharat Singh Meena R/o Khandera Tehsil Bawal Distt Rewari were not issued by this office."

9. On receiving the aforesaid information from SDO (Civil) Rewari, a preliminary enquiry was conducted. Finding substance in the pre-enquiry, charge sheet dated

16.11.2007 was issued to petitioner the same reads as under:-

“Articles of Charges

Shri Manoj Kumar son of Shri Bharat Singh HC/RPF/Post Kotakpura is hereby charged that by submitting the take certificate of his relating to Schedule Tribes Category and by declaring relating himself to Scheduled Tribes, he got appointment on the post of Constable in RPF and on the basis of this category he got promotion to the post of Head Constable and thus he violated Rule no. 146.6(iv) of RPF Rules, 1987.

Statement of Imputation in support of Articles of Charges.

Manoj Kumar son of Shri Bharat Singh posted at RPF Post Kotakpura had submitted an application dated 03.10.1998 for the post of Constable/RPF wherein he declared to be related himself to Scheduled Tribe. On being selected in recruitment of Constable RPF on Roll No. 627253 under category of Scheduled Tribes, by intimating of his being selected and for bringing caste certificate issued by competent authority along with other certificate through letter dated 16.11.99 by Divisional Safety Commissioner/ RPF, Ambala called in his office on 25.11.1999. When Scheduled Tribe Certificate was not submitted by him, he was again asked by the Divisional Safety Commissioner / RPF, vide its letter dated 25.11.99 and for this time upto 29.11.99

was given. Ultimately he submitted the Certificate No. 203980 dated 29.11.99 of his being Meena by caste and being related to Scheduled Tribe, issued by Sub Divisional Officer, Rewari (Har.) and thereafter, he was medically examined through Senior Divisional Medical Officer, Ambala Cantt. On 02.12.99 vide Medical Fitness Certificate. Apart from above, he submitted Attestation Form dated 27.11.99 relating to verification of his character and antecedents, wherein he declared to be related himself to Scheduled Tribe. According to all the three documents namely Certificate of Scheduled Tribe, Application Form and, Attestation Form, his permanent address is Village and Post Khandoha, Tehsil Bawal, District Rewari (Haryana) and as per Attestation Form, he was born in this village itself. As per his permanent address, the verification of Character and antecedents was made from District Magistrate, Rewari (Haryana).

It has been found in the preliminary investigation made by Shri K.P. Singh, Inspector / RPF / (Welfare), Firozpur from the office of Sub-Divisional Officer/ Rewari (Haryana) that the certificate No. 203980 dated 29.11.1999 of Scheduled Tribe produced by HC Manoj Kumar was not issued from his office meaning thereby fake certificate of Schedule Tribe was produced by HC Manoj Kumar is said to be related comes under Backward classes. Thus by producing fake certificate of being related to the Scheduled Tribe and by making wrong declaration Manoj Kumar got appointment for the post of Constable RPF and thereafter got promotion

from Constable to Head Const RPF in Scheduled Tribe quota itself."

10. Admittedly, the petitioner had submitted an application dated 03.10.1998 for the post of constable of RPF wherein he declared himself to be a "Scheduled Tribe" and a resident of State of Haryana. On being asked to produce the caste certificate issued by the competent authority; the petitioner submitted a certificate No.203980 dated 29.11.1999 of him belonging to "Meena" caste and thereby belonging to Scheduled Tribes. It has been found in the preliminary investigation made by the respondents that the aforesaid certificate produced by the petitioner was never issued from this office which basically inclined to the certificate being a fake certificate. The SDO (Civil) Rewari further clarified that the 'Meena' caste in Haryana to which petitioner belongs comes under the Backward Classes and the certificate in question was not issued from the office of SDO (Civil) Rewari.

11. In pursuance to the charge-sheet a departmental enquiry was initiated. The Enquiry Officer proved the charges against the petitioner. The Disciplinary Authority vide order dated 17.07.2008 dismissed the petitioner from service with effect from 18.07.2008. The petitioner filed an appeal and the same was dismissed by the Appellate Authority vide order dated 19.01.2009.

12. The learned counsel for the petitioner stated that the petitioner never submitted the alleged caste certificate. We do not find any force in the above argument because while making this statement he had not produced any other caste

certificate duly issued by competent authority. In fact, he does not have the caste certificate. Another plea the petitioner has taken that he was selected as Constable in the year 2000. At that time all the documents including caste certificate were verified and found to be in order. Thereafter, on 14.10.2005 the petitioner got promoted to the post of Head Constable on the basis of the same documents.

13. It is interesting to note that, the counsel for the respondent has not advanced any arguments as to why has there been a delay in verification of this "caste certificate" and what was the conclusion to the earlier certificate when the petitioner first joined the force as a Constable. But, the reason is obvious that the petitioner had produced the fake and forged certificate and somehow he must have had avoided the due verification. This time on his promotion as Head Constable the respondents have received the negative report which landed him to dismissal from service.

14. In addition to the Schedule Tribe certificate the petitioner has submitted verified and attested forms dated 27.11.1999 duly attested by the Head Master, Government High School, Tankari, Rewari (Haryana), stating that, if any information is found false or suppressed on any factual information in the aforesaid attestation form comes to notice at any time during service of a person he would be liable to be terminated.

15. The Respondents after getting the negative report from S.D.O. (Civil) Rewari (Haryana) that the aforesaid certificate Sl. No.203980 dated 29.11.1999 has not been

issued from their office. Admittedly, the petitioner is a resident of Haryana and as per the report of the S.D.O. (Civil) Rewari (Haryana), who had the list of Backward Classes of the State of Haryana states that 'Meena' community comes under the O.B.C. category. Therefore, in all sense the certificate produced by the petitioner is fake and phony. In any sense the said certificate cannot be justified. During the enquiry proceedings, the petitioner also failed to produce any other caste certificate of his being 'Meena' as Scheduled Tribe.

16. In the decision reported as Kumari Madhuri Patil vs. Addl. Commissioner AIR 1995 SC 94 it was held: "If the certificate is fake and thereby any person, who does not belong to Scheduled Tribe or Scheduled Caste, as claimed by him, gains employment or admission in any educational institute, he deprives a backward person really belonging to Scheduled Tribe/Caste an opportunity to that post/seat."

17. Therefore, we do not find any reason to pass any affirmative order in favour of the petitioner. Hence, the writ petition stands dismissed. However, no order is passed as to cost.

SURESH KAIT, J

PRADEEP NANDRAJOG, J

FEBRUARY 28, 2011
mr