

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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**WRIT PETITION Nos.15928 of 2012; 28689 of 2015 and CONTEMPT
CASE No.209 of 2016**

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Between:
Suryavarapu Apparao

....Petitioner

and

State Bank of India, rep. by The Regional Manager, Region-IV and Disciplinary
Authority and others.

....Respondents

JUDGMENT PRONOUNCED ON : 08.08.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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**WRIT PETITION Nos.15928 of 2012; 28689 of 2015 and CONTEMPT CA
No.209 of 2016**

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COMMON ORDER:

These three cases are being disposed of by this common order as
they arise out of the same cause of action.

The petitioner joined the service of the first respondent Bank in

the year 1979 under Scheduled Tribe quota as he claimed that he belongs to Valmiki caste. His father earlier filed W.P.No.8106 of 1993 challenging the proceedings of the District Collector dated 30.04.1993 canceling his community certificate and the said Writ Petition was allowed on 05.08.1997 by directing the authorities to hold a fresh enquiry and pass appropriate orders after affording an opportunity of hearing to the petitioner therein. Based on the cancellation of the community certificate of the father, the first respondent bank issued a notice on 20.08.1993 proposing disciplinary action. The same was challenged by the petitioner in W.P.No.16075 of 1993 and the same was allowed on 07.09.2001 by setting aside the proposed disciplinary action and with a direction to determine the caste as per Rules 5 and 8 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act. Though the case of the petitioner's father was referred to the District Collector during his lifetime, the case was not settled. After the death of the petitioner's father, the petitioner received a show cause notice on 19.12.2011 alleging that he belongs to Mala caste, but not Scheduled Tribe caste. He submitted a detailed reply on 18.02.2012 to the third respondent denying the same and asserting that he belongs to Valmiki community. However, no enquiry was conducted. But, based on the report prepared by the Tahsildar, the third respondent cancelled the community certificate of the petitioner on 22.04.2012. The said order was not communicated to the petitioner. But, after coming to know of the same, he obtained a photo copy from the office of the third respondent and filed a statutory appeal on 14.05.2012 before the second respondent and the same is pending. He also sought suspension of the order dated 22.04.2012 in the appeal. When the said application was rejected by the second respondent, the petitioner filed W.P.No.21611 of 2012 and the same was disposed of on 18.07.2012 directing that the order dated 22.04.2012 of the third respondent shall remain suspended till the disposal of the appeal. Though the petitioner made a request to the first

respondent not to take any action based on the order of the third respondent dated 22.04.2012, the first respondent passed an order on 18.05.2012 basing on order of the third respondent, terminating the services of the petitioner. Challenging the same, W.P.No.15928 of 2012 was filed. This Court granted interim suspension of the said order by order dated 31.05.2012 and the same was made absolute on 03.08.2012.

In the meanwhile, the petitioner retired from service on 31.05.2015 and in spite of the same when the pensionary benefits were not released, the petitioner filed W.P.No.28689 of 2015. In the said case this Court, by order dated 11.09.2015, directed the respondents to pay the provisional pension to the petitioner.

Alleging non-implementation of the aforesaid order dated 11.09.2015, C.C.No.209 of 2016 was filed.

No counter affidavit was filed by respondent Nos.2 and 3. But, the first respondent filed a counter affidavit along with a petition to vacate the order of suspension in W.P.No.15928 of 2012. The first respondent stated that the petitioner obtained false community certificate by claiming himself to be belonging to Valmiki community and secured employment in a fraudulent manner. He joined the service of the respondent bank on 19.02.1979 as a Cashier against the vacancy reserved for Scheduled Tribe candidate and at the time of entry into service he produced community certificate dated 15.11.1978 issued by the Taluk Office, Chinthapally. In fact when the bank received information regarding the fraudulent act of the petitioner and wanted to initiate disciplinary proceedings way back in the year 1993, the petitioner filed W.P.No.16075 of 1993 and the disciplinary proceedings were set aside by order dated 07.09.2001 giving liberty to take action under the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act and the Rules made thereunder. In pursuance of the same, the first

respondent requested the statutory authority – the third respondent, to cause an enquiry into the genuineness of the caste certificate submitted by the petitioner while securing employment. The third respondent ordered enquiry by proceedings dated 27.06.2003 and the Mandal Revenue Officer, Chinthapally, submitted a comprehensive report on 04.09.2003. The District Level Scrutiny Committee conducted an enquiry on 27.12.2003 and 24.01.2004 and based on the same, the community certificate of the petitioner was cancelled and as a consequence of the same, the first respondent issued the orders of termination on 18.05.2012 after expiry of the period of thirty days from the date of the order of the third respondent.

The facts in this case are not in dispute. The petitioner belongs to Valmiki caste and claims the status of Scheduled Tribe. He was appointed in the respondent bank under ST quota. At the time of entering into service he produced the community certificate issued by the then Tahsildar, Chinthapally, dated 15.11.1978. When the community certificate of the father was cancelled, the bank issued a notice to him on 20.08.1993 proposing disciplinary action, but in view of the order of this Court in W.P.No.16075 of 1993 dated 07.09.2001, the disciplinary action could not be taken. The case of the petitioner was referred to the District Collector as per the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act. The community certificate of the petitioner was cancelled by order of the District Collector dated 22.04.2012. Against the said order, the petitioner preferred a statutory appeal before the second respondent and the same is pending. He continued in office by virtue of the order of this Court in W.P.No.21611 of 2012 and W.P.No.15928 of 2012 and retired on 31.05.2015 on attaining the age of superannuation. Now the pensionary benefits are not released only on the ground that his appeal against the order of cancellation of community certificate is pending.

Learned Counsel for the petitioner submits that the petitioner is entitled to pensionary benefits consequent to the retirement, whereas the learned Counsel appearing for the bank submits that since the initial entry itself is on the basis of a fraudulent community certificate, the petitioner is not entitled to any benefits.

It is clear from the facts of the case that the petitioner rendered total service from the date of entry into service till the date of retirement either by virtue of the Court orders or otherwise. The pension is consequent to the rendering of service. The Supreme Court in **D.V.Kapoor v. Union of India**^[1] held that pension is not a bounty of the State but is a statutory right. The social status of the petitioner is yet to be decided finally by the appellate authority and it is nothing to do with the service rendered by the petitioner. Though the social status of the petitioner was in doubt, the respondent Bank has not taken proper timely steps for getting the report from the District Collector and the District Collector cancelled the certificate after 32 years of his entry in service. The service rendered by him cannot be held to be illegal even if it is held that he cannot be treated as belonging to ST category by the appellate authority, since the petitioner retired from service and went out of the jurisdiction of the bank authorities. The validity or otherwise of the order of termination by the bank on 18.05.2012 without conducting an independent enquiry but merely based on the order of cancellation of community certificate of the District Collector is of no consequence in view of the efflux of time and the subsequent retirement. Hence no adjudication is necessary on the said order.

In view of the above, W.P.No.15928 of 2012 is closed and W.P.No.28689 of 2015 is allowed. However, in the facts and circumstances of the case, this Court feels that no orders are necessary in the Contempt Case and C.C.No.209 of 2016 is, accordingly closed. The miscellaneous petitions pending in these cases, if any, shall stand

closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

08.08.2016

vs

[\[1\]](#) (1990) 4 SCC 314