

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.04.2017

Delivered on : 27.04.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.Nos.26132 of 2016

G.Rangarajan

...Petitioner

vs.

The Regional Manager,
Central Bank of India,
No.14/15, V.H.Road,
Coimbatore - 641 001.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondent to consider the application of the petitioner dated 20.06.2016 and treat him as a general category candidate and allow the petitioner to retire from service under Voluntary Retirement Scheme (VRS) in the light of the circular of Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) SC/ST Section dated 12.09.1990 and the letter of Deputy Secretary (SCT), Ministry of Personnel, Public Grievances and Pensions dated 26.07.1990.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.T.M.Hariharan

Mr.A.kumar Spl GP R2

O R D E R

K.K. SASIDHARAN, J.

This writ petition is filed to direct the respondent to consider the representation of the petitioner dated 20 June, 2016, and treat him as a General Category candidate and allow him to retire from service under Voluntary Retirement Scheme (VRS) in the light of the Circular issued by the Government of India, Ministry of Finance, dated 12 September, 1990 and the letter of Ministry of Personnel, Public Grievances and Pensions, dated 26 July 1990.

The Facts:

2. The petitioner was appointed as a Clerk-cum-Cashier in the Central Bank of India, against the post reserved for Scheduled Tribe. The Community Certificate was subsequently cancelled by the Revenue Divisional Officer. The order was challenged before this Court in W.P.No.564 of 1992. This Court set aside the order passed by the Revenue Divisional Officer and directed the District Collector to conduct fresh enquiry and pass appropriate orders on merits. The District Collector passed an order cancelling the Community Certificate of the petitioner. The order was challenged in W.P.No.12663 of 1999. The High Court allowed the writ petition and directed the District Level Vigilance Committee to consider the matter afresh.

3. The District Level Vigilance Committee arrived at a finding that the petitioner does not belong to Scheduled Tribe. The Community Certificate was therefore cancelled. The order was challenged in W.P.No.8281 of 2001. The writ petition was allowed and a direction was issued to consider the matter by the District Level Committee consisting of three members. The Committee conducted fresh enquiry and thereafter, show cause notice was issued to the petitioner as to why his certificate should not be cancelled. The notice was challenged by him in W.P.No.15121 of 2007. The Show Cause Notice was set aside and the matter was referred to the State Level Vigilance Committee. Thereafter, the Vigilance Cell conducted enquiry and forwarded its report to the Director of Tribal Welfare Department. Based on the report, a Show Cause Notice was issued to the petitioner as to why his Community Certificate should not be cancelled. The Notice was challenged by the petitioner in W.P.No.25522 of 2016. This Court set aside the Show Cause Notice and directed the State Level Scrutiny Committee to conduct fresh enquiry. The issue is now pending before the State Level Scrutiny Committee.

4. In the mean time, the petitioner submitted application for Voluntary Retirement. The Bank, by Office Memo dated 6 November, 2009 intimated the petitioner that in view of the pendency of the verification proceedings before the State Level Scrutiny Committee, it would not be possible to accept the application submitted by him for voluntary retirement. The petitioner is therefore before this Court.

Submissions:

5. The learned counsel for the petitioner contended that pendency of the matter before the State Level Scrutiny Committee would not give a right to the respondent to reject the application for Voluntary Retirement. According to the learned counsel, the petitioner made it clear that he would not claim the benefits of reservation and as such, the Bank was not correct in rejecting his request for Voluntary Retirement.

6. The learned counsel for the Bank contended that the community status of the petitioner is still in issue and as such, it would not be possible for the Bank to permit him to retire voluntarily. According to the learned counsel, the petitioner wanted to put an end to the proceedings relating to the community status and the same is evident by his application seeking voluntary retirement.

Discussion:

7. The factual matrix indicates that the petitioner obtained a Community Certificate indicating that he belongs to "Kondareddis" community, which is notified as a Scheduled Tribe. He was appointed in the Bank against a post reserved for Scheduled Tribe. The documents available on record indicates that the petitioner never permitted the authorities to verify his community status. The petitioner has been filing writ petitions, one after another challenging the proceedings initiated by the Scrutiny Committee at the District Level. The matter was ultimately referred to the State Level Scrutiny Committee. The State Level Scrutiny Committee is now seized off the matter.

8. The status report filed by the Chairman, State Level Scrutiny Committee indicates that the Vigilance Cell concluded enquiry and the matter was referred to the Scrutiny Committee for consideration. The petitioner failed to appear before the Committee and that was the reason for the delay in concluding the process of verification.

9. The petitioner secured employment by producing a Scheduled Tribe Community Certificate. The petitioner was appointed in 1984. The petitioner enjoyed the benefit of reservation for a period of 25 years and thereafter, submitted application on 3 November 2009 for Voluntary Retirement.

10. The course of conduct adopted by the petitioner right from 1992 shows that he is not in favour of passing orders on merits by the competent authority constituted for verification of the community status. The petitioner succeeded in dragging the proceedings for all these years. When it is found that the District Level Vigilance Committee conducted enquiry and collected materials against him, the petitioner immediately submitted application for Voluntary Retirement. According to the petitioner, he would not claim any benefit from the Bank on the strength of the Community Certificate. There is no question of winding up the proceedings initiated by the State Level Scrutiny Committee midway. The certificate of the petitioner should be verified by the Committee, as otherwise, even his children and

grand children would rely on the said certificate to claim the benefits of reservation.

11. The direction given by this Court right from 1992 would have no meaning, in case, at this point of time, the State Level Scrutiny Committee is directed not to proceed further with the verification process.

12. The application for Voluntary Retirement was submitted only during the currency of the matter before the State Level Scrutiny Committee. The Committee is in the process of concluding the proceedings. It was only on account of the failure of the petitioner to appear, the Committee adjourned the matter. In any case, the Bank was correct in denying the request made by the petitioner for Voluntary Retirement. There is no question of issuing a mandamus, in view of the stand taken by the Bank, in its reply dated, 6 November 2009. There is absolutely no merit in the contention taken by the petitioner.

13. In the up shot, we dismiss the writ petition. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

svki

To

The Chairman/Principal Secretary to Government
State Level Scrutiny Committee/
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St. George, Chennai-9.

+1cc to Mr. Hariharan, Advocate, S.R.No.25736

+1cc to Mr. Duraisamy, Advocate, S.R.No.25740

+1cc to the Government Pleader, S.R.No.26460

mg(co)

rmp(11/05/17)

W.P.No.26132 of 2016

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