

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.4875 OF 2004

ORDER:

The case of the petitioner is that she was appointed as Clerk in the 1st respondent Bank and posted to 2nd respondent branch on 25.07.1984. As per the Caste Certificate dated 05.07.1983, the petitioner belongs to ST community. While so, the Assistant General Manager of the respondent Bank issued proceedings dated 04.02.1988, calling upon the petitioner to submit explanation on the premises that the caste certificate submitted by the petitioner was false at the time of entry into her service. Accordingly, the petitioner submitted explanation on 12.02.1988. Thereafter, the District Collector, Srikakulam issued show cause notice dated 23.05.1992, asking the petitioner to show cause as to why the caste certificate issued by the Tahasildar should not be cancelled, for which the petitioner submitted explanation. But, the District Collector issued proceedings dated 03.11.1993 cancelling the caste certificate dated 05.07.1983 issued by the Tahasildar. Aggrieved by the same, the petitioner filed WP.No.17852/1993 and obtained interim stay of the proceedings of the District Collector. Subsequently, this Court allowed the said writ petition on 16.04.2002 setting aside the proceedings of the District Collector and also remitted the matter back to the District Collector with a direction to consider the petitioner's case afresh, making certain observations. In pursuance to the

remand by this Court, the District Collector issued proceedings dated 11.01.2004 holding that the petitioner belongs to 'Oriya Brahmin Holuva Community', but not ST community and cancelled the Caste Certificate by confirming the earlier proceedings dated 03.11.1993. She received the said proceedings dated 11.01.2004 on 24.01.2004 and aggrieved by the said proceedings dated 11.01.2004, the petitioner preferred appeal before the Government under Section 7(2) of the A.P.(SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 (*for short 'the Act, 1993' and 'the Rules, 1997'*) on 05.02.2004, without waiting for publication of gazette notification. Thereafter, the 2nd respondent on 07.02.2004 sought to issue the proceedings of the 1st respondent dated 05.02.2004, wherein the petitioner was terminated from services, but, the petitioner requested the 2nd respondent not to insist to take proceedings dated 05.02.2004, as she preferred appeal and also requested to permit her to proceed on leave. Thereafter, the petitioner did not attend the Bank. While so, on 05.03.2004, the Government granted stay of operation of the proceedings issued by the District Collector dated 11.01.2004, pending disposal of the appeal filed by the petitioner and the same was intimated to the respondent Bank vide letter dated 06.03.2004 by the petitioner. In the meanwhile, the petitioner received proceedings dated 25.02.2004 issued by the Assistant General Manager wherein it was stated that as the petitioner refused to receive proceedings dated 05.02.2004 on 07.02.2004,

the copy of the said proceedings were displayed in the office notice board and also sent to the petitioner through registered post, as such, the petitioner is no more an employee of the respondent Bank with effect from 07.02.2004. Aggrieved by the proceedings dated 05.02.2004 whereby the petitioner was terminated from services by the respondent Bank, present writ petition is filed.

Learned counsel for the petitioner submits this Court on 26.07.2004 passed interim order in WP.MP.No.6377 of 2004 directing the 2nd respondent to reinstate the petitioner into service as clerk within ten days and allow the petitioner to continue as clerk without any back wages, pending disposal of the writ petition or pending disposal of the appeal by the Government, whichever is earlier; that in pursuance to the said orders, the petitioner was reinstated on 06.08.2004; and that the appeal filed by the petitioner before the Government is still pending and the interim order granted by the Government in the said appeal is also still subsisting.

Heard learned counsel for the respondents.

It is to be seen that this Court by referring the above facts passed order in WP.MP.No.6377/2004 suspending the proceedings dated 05.02.2004 issued by the 1st respondent and also directing the 2nd respondent to reinstate the petitioner into service. In view of the same, and in view of the stay granted by the Government in the appeal filed by the petitioner against the

cancellation of the caste certificate, the termination of the petitioner vide impugned proceedings dated 05.02.2004 are liable to be set aside. Accordingly, the said proceedings dated 05.02.2004 issued by the 1st respondent are set aside. However, it is open for the respondent Bank to pass fresh orders after receipt of orders in the appeal preferred by the petitioner before the Government and take appropriate action.

Accordingly, the writ petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

26.07.2017
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A.RAJASHEKER REDDY, J