



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2018

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CORAM :

THE HON'BLE MR. JUSTICE C.T.SELVAM
AND
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.27609 of 2017

S.Kuppusamy

.. Petitioner

Vs.

1.The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai - 9,
Rep. by its Chairman.

2.Indian Bank,
Rep by Chief Manager (HRM),
HRM Department,
254-260 Avvai Shanmugam Salai,
Royapettah , Chennai 14.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to calling for the records relating to the letter in Group A 24264:2016, dated 28.4.2016 on the file of the 2nd respondent, quash the same and to direct the 2nd respondent to disburse the terminal benefits and arrears due with interest to the petitioner.

For Petitioner : Mr.S.Doraisamy

For Respondents: Ms.Thangavadhana Balakrishnan (for R1)
Additional Government Pleader

ORDER

(Order of this Court was made by M.V.MURALIDARAN,J.)

Assailing the proceedings of the second respondent bank dated 28.4.2016, in and by which the second respondent Bank withheld payment of terminal benefits of the petitioner pending verification of his community certificate by the first respondent Committee, the present writ petition is filed.

2. The facts in brief are as under: According to the petitioner, he belongs to Kurumans Community, which is a



notified Scheduled Tribe Community, and he obtained a community certificate to that effect on 24.10.1979. Based on merits and his social status, he was selected by the Banking Service Recruitment Board on 18.1.1985 to the post of Clerk/Shroff in the second respondent Bank.

3. In compliance with the direction of the second respondent Bank, the petitioner obtained a fresh community certificate from the Tahsildar, Harur, on 24.3.1985 and thereafter, he was permitted to join duty on 16.10.1985.

4. It is stated that, on 28.5.1993, the second respondent sent the community certificate of the petitioner for verification by the authorities and the petitioner was informed that till the genuineness of the said community certificate is upheld by the competent authority, he would be treated as a candidate belonging to general category and, it is claimed, that no special preference was extended to him.

5. It is stated that the Collector, Dharmapuri, by order dated 20.5.1998, cancelled the community certificate issued to the petitioner holding that he does not belong to Kurumans community, but belongs to Kurumbar community, which is a backward class community.

6. Calling into question the said order, the petitioner filed W.P.No.7917 of 1998, wherein, this Court, by order dated 24.4.2002, set aside the order of the Collector and remitted the matter to the District Level Scrutiny Committee for conducting de novo proceedings. In course of proceedings before the District Level Scrutiny Committee, the Anthropologist, after thorough enquiry, submitted a report dated 16.2.2007 to the effect that the petitioner belongs to Kurumans Community.

7. However, pending final report of the District Level Scrutiny Committee, the Government issued G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV01) Department, dated 12.9.2007, holding that the State Level Scrutiny Committee alone has power to enquire into the genuineness of Scheduled Tribe candidates. The challenge made by the petitioner to the said government order was rejected, directing him to appear before the Committee and make a representation.

8. It is alleged that pursuant to the said direction the petitioner sent series of representations to the District Level Scrutiny Committee, but the same did not evoke any response. In the meanwhile, the petitioner retired from



service on attaining the age of superannuation on 30.4.2016 and just on the anvil of his retirement, the second respondent Bank passed the impugned order dated 28.4.2016, withholding the terminal benefits due and payable to the petitioner. Hence, the present writ petition for the relief stated supra.

9. It is the contention of the learned counsel appearing on behalf of the petitioner that the community certificate issued to the petitioner by the Head Quarters Deputy Tahsildar, Harur, dated 24.10.1979, and the subsequent certificate issued by the Tahsildar, Harur, dated 24.3.1985 are still valid and subsisting and have not been set aside in the manner known to law and such certificates issued by the Tahsildar prior to 11.11.1989 are valid and binding on the second respondent.

10. It is further submitted that the Anthropologist after thorough verification gave his report on 16.2.2007 to the effect that the petitioner belongs to Kurumans community and that apart, the community certificate issued to the petitioner's close relative - K.Gopal was verified by the State Level Committee and held to be genuine by proceedings dated 19.2.2015 and, therefore, keeping the proceedings pending is causing undue hardship to the petitioner.

11. He further submitted that on account of the delay in verification of community certificate by the authority concerned, the petitioner should not be made to suffer and on this score, the terminal benefits due and payable to the petitioner cannot be withheld, and in any event, if the community certificate is found to be not genuine, the second respondent can always pass orders forfeiting the pension as well as family pension.

12. The learned Additional Government Pleader appearing on behalf of the first respondent, placing reliance on the status report dated 18.12.2017, submitted that the verification of genuineness of the social status of the petitioner will be finalized by the first respondent Committee only on receipt of the report from the Deputy Superintendent of Police, Scheduled Castes/Scheduled Tribes Viggilance Cell and sought to buy time.

13. We have heard Mr.S.Doraisamy, learned counsel for the petitioner and Ms.Thangavadhana Balakrishnan, learned Additional Government Pleader for the 1st respondent and perused the documents available on record.



14. Qua the competency of the Tahsildar to issue the said community certificates, it is apposite to refer to the decision of the Hon'ble Supreme Court in R.Kandasamy v. The Chief Engineer, Madras Port Trust, (1997) 7 SCC 505, wherein it is emphatically held as under:

"6. In our opinion the community certificate issued to a Scheduled Tribe candidate by the Tahsildar prior to 11.11.1989 is a good and valid community certificate for all purpose so long such as a certificate is not cancelled. The authorities cannot decline to take that into consideration."

15. In the light of the decision, referred supra, the authorities concerned are bound to take into consideration the community certificate issued to the petitioner by the Tahsildar, who is a competent authority, at the relevant time, to wit, prior to 11.11.1989. That apart, in the case on hand, such community certificates issued to the petitioner have not been set aside in the manner known to law and are still pending verification by the first respondent Committee, even after the petitioner attained superannuation. It is not the case of the respondents that the verification proceedings have been delayed due to the petitioner and, therefore, certainly, the petitioner ought not to be penalized despite rendering unblemished service till the date of superannuation.

16. That apart, in State of Bihar v. Sumit Anand, (2005) 12 SCC 248, the Hon'ble Supreme Court upheld the order of High Court directing the revenue authorities to issue community certificate to the children based on the certificates already issued to their father, grandfather, mother, and maternal uncle. The Hon'ble Supreme Court observed as under:

"6. We have perused the findings recorded by the Division Bench as well as the Single Judge of the High Court. In view of the fact that the respondent's father, grandfather, mother and maternal uncle had all been granted the certificate certifying that they belong to the "Gond" community, we see no reason to come to a conclusion other than the one arrived at by the High Court to the effect that the respondent was entitled to issuance of the caste certificate."

17. The Hon'ble Supreme Court as well as this Court, time and again, held that when community certificates issued in favour of close relatives and blood relations by a competent authority subsist, the authorities are bound to consider the same, unless the same are set aside by a higher authority. The first respondent Committee had till date not held anything against the petitioner and according to them, the verification



by the Vigilance Cell is pending. That being the case, the delay in verification cannot be put against the petitioner. In that case on hand, it is the specific plea of the petitioner that the community certificate issued to the petitioner's close relative - K.Gopal was verified by the State Level Committee and held to be genuine by proceedings dated 19.02.2015. The said fact is not disputed either across the bar or by way of counter affidavit.

18. Furthermore, in the instant case, as undertaken by the learned counsel for the petitioner during the course of hearing, the petitioner has filed an affidavit of undertaking dated 01.02.2018, specifically stating that "in case the State Level Scrutiny Committee decides that my community certificate is not genuine I will repay the entire terminal benefits if paid by the 2nd respondent Bank within a period of one month."

19. Pension is paid in recognition of the past service rendered by an employee. It is only a deferred compensation to an employee for his past services. Such deferred compensation, in our considered opinion, is indefinitely deferred stating that verification proceedings are pending. The petitioner joined service on 16.10.1985 and retired on 30.04.2016, but till date the first respondent Committee has not arrived at a finding regarding the social status of the petitioner, barring a statement in the status report that the report of the Vigilance Cell is awaited. In the case on hand, the petitioner has not been found guilty of any misconduct, nor are any disciplinary proceedings pending against him. Therefore, in our considered view, denial of terminal benefits by the second respondent to the petitioner cannot be countenanced.

20. For the foregoing reasons, we dispose of the writ petition with the following directions:

i. The second respondent bank is directed to disburse the terminal benefits and arrears due to the petitioner within a period of one month from the date of receipt of a copy of this order, on obtaining indemnity bond from the writ petitioner;

ii. The first respondent Committee is directed to complete the enquiry and pass appropriate orders in respect of the genuineness of the petitioner's community certificate, within a period of three months from the date of receipt of a copy of this order without fail.

iii. It is made clear that if the first respondent holds against the petitioner, the petitioner shall return the terminal benefits amount to be received from the second respondent bank within a period of one month



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from the date of such order to be passed by the first respondent, and the petitioner is at liberty to challenge such proceedings of the first respondent, if so advised, in the manner known to law.

iv. No costs.

vs

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

1.The Chairman,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Chief Manager(HRM)
Indian Bank,
HRM Department,
254-260 Avvai Shanmugam Salai,
Royapettah , Chennai 14.

+lcc to Mr.S.Doraisamy, Advocate SR.No.10819

+lcc to Mr.T.S.Gopalan & Co., Advocate SR.No.6935

sm:21.2.2018

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