

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 2271 of 2011

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the proceedings dated 29.09.2006 issued by the 2nd respondent and the consequential Office Order dated 03.12.2006 issued by the Project Officer, OCP-3, RG, Singareni Collieries Company Limited, insofar as denying back wages and continuity of service to the petitioner, as illegal and arbitrary. A Consequential direction is also sought to the respondents to treat the appointment of the petitioner as EP Operator from 27.01.1997 with all consequential benefits.

Heard Sri K. Vasudeva Reddy, learned counsel for the petitioner, and Sri N. Krishna Rao, learned standing counsel for the respondent Company.

According to the petitioner, he belongs to Nayakapu community which falls under Scheduled Tribe category, and was appointed as EP Operator in the respondent Company on 27.01.1997. While so, a charge sheet was issued on 27.10.1997 alleging that he furnished false information regarding his caste and obtained employment, for which, he submitted explanation on 07.12.1997. Dissatisfied with his explanation, a detailed enquiry was conducted, and thereafter, he was dismissed from service vide proceedings dated 21.09.1998. Aggrieved by the order of dismissal, he approached this

Court by way of WP No.36503 of 1998. This Court vide order dated 14.10.2004 disposed of the writ petition by setting aside the order of dismissal and directing the respondents to enquire into the matter as to the social status of the petitioner afresh and pass appropriate orders, as per law, after giving opportunity and notice to him. Pursuant thereto, after conducting enquiry, the respondents had reinstated him into service vide proceedings dated 29.09.2006 as EP Operator afresh and in the consequential Office Order dated 03.12.2006 issued by the Project Officer of the respondent company, it was held that he is not entitled for continuity of service and back wages. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner has contended that the competent Authority to issue a caste certificate is the District Collector as per Act 16/1993 and if the employer doubts the caste certificate produced by the employee as a fake one, he should refer the same to the competent Authority i.e., the District Collector to find out its genuineness, and as long as the caste certificate is not cancelled by the competent Authority, it is deemed to have been valid. Therefore, the impugned orders are illegal and contrary to the judgment rendered by this Court in WP No. 36503 of 1998 dated 14.10.2004 and the petitioner is entitled for continuity of service, back wages and other benefits.

Per contra, learned standing counsel for the respondents has contended that the Mandal Revenue Officer, who is said to have

issued the caste certificate in question, had denied issuance of the same in favour of the petitioner and that necessitated the respondents to take action against the petitioner, and that only in the course of enquiry, it was realized that the petitioner is a member belonging to Nayakapu community. The learned standing counsel submitted that the case of the petitioner was considered for appointment as EP Operator afresh, in compliance with the orders of this Court in WP No.36503 of 1998 dated 14.10.2004. He has further contended that no illegality has been committed by the respondents in passing the impugned orders. Therefore, no interference is called for from this Court.

I have considered the rival submissions made by the learned counsel on either side and perused the record. I am of the considered view that the understanding of law by the respondents is totally misconceived and as per the Act 16/1993, the competent authority to cancel a caste certificate is only the District Collector. But, contrary to it, in the case at hand, the Enquiry Officer has proved the caste certificate of the petitioner to be fake and not a genuine one. As long as the caste certificate issued in favour of the petitioner is not cancelled by the competent Authority, the District Collector, as per the Act 16/1993, the respondents cannot deny the benefits to which the petitioner is entitled. Therefore, the impugned orders are illegal and arbitrary.

Accordingly, the writ petition is allowed. The respondents are directed to grant continuity of service and back wages to the petitioner with all consequential benefits, by duly treating him to have been appointed as EP Operator with effect from 27.01.1997. The respondents are also directed to release the increments of the petitioner, if not already released.

Consequently, miscellaneous applications, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

18th September, 2018
cbs



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Writ Petition No. 2271 of 2011
(allowed)

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