

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 16217 and 16432 of 2019

1. Mrs. Kannaki Selvaraj ..Petitioner in W.P.No.16217 of 2019

2. R. Nirmal ..Petitioner in W.P.No. 16432 of 2019

Vs.

1. The Reserve Bank of India
Represented by Deputy General Manager
Human Resource Management
Department, Fort Glacis,
No.16, Rajaji Salai, P.B.No.40,
Chennai- 600 001.

2. The Chairman State Level Scrutiny Committee &
Secretary, Adi Dravidar Tribal Welfare Department,
Government of Tamil Nadu, Chennai.
(R2 impleaded as per orders of the Court dated 25.09.2019)

.. Respondents in both WPs.

Prayer in both WPs. : Writ Petition filed under Article 226 of the Constitution of India praying to direct the respondent to disburse all the terminal benefits such as provident fund, leave encashment, gratuity, etc., including pension with reasonable interest from the date of the dues by the issue of a Writ of Mandamus or any other appropriate writ, order or direction.

For Petitioners in both WPs.: Mr. Yogesh Kannadasan

For Respondents in both WPs. : Mr. ChevananMohan
for M/s. King &Partridge for R1

Mr. R.S. Selvakumar,
Government Advocate

C O M M O N O R D E R

The petitioners filed these Writ Petitions seeking direction to the first respondent to disburse all the terminal

benefits such a provident fund, leave encashment, gratuity etc., including pension with reasonable interest from the date of the dues.

2. The case of the petitioners is that the petitioners were appointed in Reserve Bank as Typist/Clerical Cadre under the quota reserved for Schedule Tribes. In support of their claim, the petitioners had produced valid community certificates. After several years of their appointment, at the instance of the third party complaints, their community certificates were verified. Thereafter the then District Collector has passed an illegal order, which was set aside by this Hon'ble Court in W.A.Nos.241 of 1996 and 1468 of 2005 dated 08.03.1996 and 24.03.2009 respectively. In spite of that, the State Level Caste Scrutiny Committee by order dated 16.10.2015 cancelled the Community Certificate and the same was challenged before this Court in W.P.No.35939/2015. Subsequent to the issuance of notice by this Court, in the said W.P; the State Level Caste Scrutiny Committee withdrawn the proceedings dated 16.10.2015, wherein the Community Certificate was cancelled and therefore the W.P. was withdrawn by the petitioners. Thereafter the petitioners retired on superannuation on 30.06.2018 and 31.08.2018 respectively. As their terminal benefits were not given to them, they made representations to the respondent to disburse the benefits, for which the respondent by communication dated 21.08.2018 and 27.12.2018 respectively informed that till a final decision is taken by the State Level Scrutiny Committee, they were not in a position to release her terminal benefits. Hence the present Writ Petition.

3. Mr. Suresh Kumar, learned counsel for the petitioners would submit that the petitioners entered into service as early as in the year 1981 and served for more than 30 years and retired from service on 30.06.2018 and 31.08.2018 respectively. Till retirement the petitioners were permitted to serve, after retirement, now the respondent Bank is refusing to settle their retirement benefits. He submits that a similar issue has been dealt with by this Court in W.P.No.19234/2014 which squarely applies to the facts of the present case, wherein a Hon'ble Division Bench of this Court, by its order dated 07.07.2015 held as follows:

"37. The Railway Administration cannot raise a question as to how they will recover the terminal benefits that they will be now compelled to pay, as that is a very moot question. Logically, another question would also arise as to how they would recover the salary paid for the past 30 years. For both

questions, there cannot be an answer in law. So long as the Rules contemplate a particular portion, it is not only the 2nd respondent, but also the Railway Administration which is bound by the Rules. The interpretation given to the Rules by various Benches of this Court and of the Supreme Court, in State of Jharkhand V. Jitendra Kumar Srivastava are very clear. Therefore, the Tribunal did not commit any error in law warranting interference by this Court. Hence, the Writ Petition is dismissed. The petitioner-Railway Administration shall settle the terminal benefits within a period of eight weeks from the date of receipt of a copy of this order. The 3rd respondent-State Level Scrutiny Committee is directed to complete the proceedings, in accordance with law, within a period of three months from the date of receipt of a copy of this order. "

4. The learned counsel for the respondent would submit that the community certificate has to be properly verified by the State Level Committee. The petitioners retirement benefits cannot be disbursed on the basis of a community certificate when some cloud is cast on the genuineness of the same. In support of his submissions, he relies upon a decision of the Court in W.P.No.32407 of 2018 reported in 2018 SCC Online Mad 2243, order dated 18.07.2018, paragraph 34 of the said order reads thus:

" 34. In view of the aforesaid discussions and considering the surrounding facts and circumstances of the present case, this Court deems it fit and proper in directing the second respondent/State Level Scrutiny Committee, to verify the community certificate of the petitioner, by scrupulously adhering to the necessary procedures and formalities also by providing an 'opportunity of Hearing' to the petitioner and to pass appropriate reasoned speaking orders, within the time adumbrated by this Court, the Deputy Superintendent of Police, Social Justice and Human Rights Wing, District Police Office, Kancheepuram District, is directed to conduct an 'Enquiry' and to submit his complete and comprehensive report to the second

respondent/chairman of State Level Scrutiny Committee, who in turn, after receipt of the said Report, shall pass necessary orders. Before parting with the case, this Court directs the petitioner to take part in the enquiry proceedings before the authority concerned and he is to extend his unstinted co-operation and assistance in an effective and efficacious manner, so as to enable the authorities to do the needful in the subject matter in issue."

5. The petitioners entered into service of the respondent-bank in the year 1981 on the basis of Schedule Tribe Community Certificate. As there was a doubt with regard to the genuineness of the Community Certificate, the Community Certificate was verified by the District Collector on an earlier occasion and then the District Collector cancelled the community certificate. Subsequently, the matter was referred to the State Level Scrutiny Committee and admitting the decision on the caste community certificate is pending before the State Level Scrutiny Committee. While being so, a Division bench of this Court categorically held that when there is some cloud cast on the community certificate, it has to be put to strict scrutiny. Accordingly this Court issued a direction to the State Level Scrutiny Committee to proceed with the verification of the caste community certificate and the petitioners therein were also directed to co-operate with the enquiry.

6. In view of the above, I am inclined to issue direction to the impleaded second respondent to conclude the enquiry within a period of four (4) months from the date of receipt of a copy of this Order and the petitioners are directed to co-operate with the enquiry, so that the authorities could decide the issue as early as possible. It is needless to say that after conclusion of enquiry if it is in favour of the petitioner, the petitioner is entitled to receive the terminal benefits.

7. With the above directions, the Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Reserve Bank of India
Represented by Deputy General Manager
Human Resource Management
Department, Fort Glacis,
No.16, Rajaji Salai, P.B.No.40,
Chennai- 600 001.

2. The Chairman State Level Scrutiny Committee &
Secretary, Adi Dravidar Tribal Welfare Department,
Government of Tamil Nadu, Chennai.

+2cc to M/s.King & Partridge, Advocate SR.88862,88863
+2cc to M/s.Yogesh Kannadasan, Advocate SR.88859,88860
+1cc to the Government Pleader SR.89217

W.P.Nos. 16217 and 16432 of 2019

CP(CO)
CB(05/03/2020)



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