

IN HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	28.08.2019
Pronounced On	19.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19849 of 2019
and
W.M.P.No.19387 of 2019

R.Krishnaveni

...Petitioner

vs

The Bank of Baroda
rep., by its Deputy General Manager,
(CMRI) Regional Office, Chennai Region,
No.10, C.P.Ramasamy Salai,
Alwarpet, Chennai 600 018.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to disburse the petitioner's terminal benefits such as provident fund, leave encashment, and other benefits.

For Petitioner : Mr.Yogesh Kannadasan

For Respondent : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

सत्यमेव जयते
O R D E R

C.SARAVANAN, J.

The petitioner has challenged the impugned Communication dated 29.06.2019 bearing Letter RD: CMR:HRM:55/2453 issued by the respondent in this writ petition. The petitioner seeks to direct the respondent- Bank to disburse all retirement and terminal benefits such as provident fund, leave encashment and other benefits.

2.The petitioner retired from the service of the respondent on attaining the age of superannuation on 29.06.2019 and has therefore filed the present writ petition for a mandamus to direct the respondent to release/disburse her retirement/terminal benefits such as provident fund, encashment

and other retirement benefits which have been withheld by the respondent.

3.The petitioner was appointed by the respondent bank in the year 1983 in the clerical cadre against the vacancy reserved for person belonging to Scheduled Tribe community. At the time of her appointment, the petitioner claims to have submitted "Kattunaikan" Schedule Tribe community certificate dated 11.11.1976 issued by Tahsildar with the respondents. The petitioner had also produced another community certificate in the prescribed format at the time of her appointment with the respondent.

4.Earlier, the petitioner was asked to appear in an enquiry before the District Level Vigilance Committee to verify the genuineness of the community certificate produced by the petitioner. The petitioner however did hear from the authority thereafter and therefore assumed that the genuineness of the committee certificate was no longer in question.

5.However, after serving the respondent for a period of 36 years petitioner came to know that her community certificate had been sent to the State-Level Scrutiny Committee for verification on the date of her retirement.

6.Learned counsel for the petitioner relied upon the decision of the Honourable Supreme Court in Chairman and Managing Director, Food Corporation of India and others vs Jagdish Balaram Bahira and others, (2017) 8 SCC 670 to state that in absence of a cancellation of the community certificate, the respondent has no authority to withhold the terminal/retirement benefits.

7.Per contra the learned counsel for the respondent submits that as per the same decision no finality can be attached to certificate which has not been verified by the authorities.

8.We have considered the arguments advanced on behalf of the petitioner and the respondent bank.

9.As per the decision of the Honourable Supreme Court in Kumari Madhuri Patil and Another vs Additional Commissioner, Tribal Development and Others, (1994) 6 SCC 241, it is mandatory for every educational institutions or an employer to verify the genuineness of the community certificate.

10.This exercise should have been done immediately after the petitioner joined the service before declaration of probation. The exercise of verification of Community Certificate ought to have been completed at the time of employment, if not soon after by the State Level Scrutiny Committee was constituted as per the order of the Hon'ble Supreme Court in Kumari Madhuri Patil and Another vs Additional Commissioner, Tribal Development and Others 1994 SCC (6) 241.

11.At the same time, as per the decision of the Honourable Supreme Court in Chairman and Managing Director, Food Corporation of India and others vs Jagadish Balaram Bahira and others, (2017) 8 SCC 670 no finality can be attached to certificate which has not been verified.

12.The petitioner has not impleaded State-Level Scrutiny Committee in the present Writ Petition. Therefore, in absence of State-Level Scrutiny Committee, we are unable to pass any order on merits.

13.Consequently, we are inclined to dismiss the present writ petition on two counts namely (i) as premature; and (ii) for not impleading the necessary party while leaving all the issues open to be decided in a fresh proceedings where the State-Level Scrutiny Committee is a party to the proceeding. In case, if already verification was over, there is no necessity for fresh verification of the petitioner's community certificate again now.

14.The writ petition stands dismissed with the above observation. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

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To

The Deputy General Manager,
Bank of Baroda,
(CMRI) Regional Office, Chennai Region,
No.10, C.P.Ramasamy Salai,
Alwarpet, Chennai 600 018.

+1cc to Mr.Yogesh Kannadasan, Advocate, S.R.No. 80582
+1cc to Mr.T.S.Gopalan & Co, Advocate, S.R.No. 80556

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NRL (CO)
GN(05/11/2019)