

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.6397 of 2010

Sandeep Kujur, S/o Late Paulus Kujur, aged about 30 years, R/o Quarter No.129, N.T.P.C., Bindyachal, NH-3/B-Type, P.O. Bindnagar, Distt. Singrauli (M.P.)

---- Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, Health and Family Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
2. Director, Health Service, Raipur, Distt. Raipur (C.G.)
3. Chief Medical and Health Officer, Office of Chief Medical and Health Officer, Raigarh (C.G.)

---- Respondents

 For Petitioner: Mr. Vinod Deshmukh, Advocate.
 For Respondents/State: Mr. Soumya Rai, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/08/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner calls in question legality, validity and correctness of order dated 31-10-2009 passed by respondent No.3 whereby the services of the petitioner have been terminated on the ground that he has submitted temporary caste certificate.
3. Mr. Vinod Deshmukh, learned counsel appearing for the petitioner, would submit that the petitioner belongs to Scheduled Tribe (ST) category and on being called, he has submitted temporary caste certificate, but his services have been terminated by cancelling the appointment order dated 22-8-2003 which is ex facie illegal and bad in

law, as he belongs to ST category and temporary caste certificate was filed on being called and there was no mandatory condition in the appointment order of production of original caste certificate and at the best, time could have been granted to him to obtain the permanent caste certificate which he has obtained on 8-9-2010 and filed along with this writ petition, therefore, the impugned order deserves to be set aside.

4. Mr. Soumya Rai, learned State counsel, would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
6. The petitioner was appointed on the post of Driver by order dated 22-8-2003 and other persons were also appointed on which some complaint was made complaining that forged certificate has been produced and irregularity has been committed pursuant to which the Chief Medical and Health Officer, Raigarh issued notice to the petitioner for his appearance on 9-10-2009 upon which the petitioner produced his temporary caste certificate that belongs to ST category. The learned Chief Medical and Health Officer, Raigarh – respondent No.3 recorded that the petitioner has produced temporary caste certificate, but thereafter proceeded to cancel the order dated 22-8-2003 simply on the ground that his appointment is void since inception.
7. In the considered opinion of this Court, since the petitioner had already filed temporary caste certificate and there is no dispute that he did not belong to ST category and there was no such mandatory

condition in the appointment order that he has to produce permanent caste certificate within a particular stipulated time, therefore, the learned Chief Medical and Health Officer could have granted time to the petitioner enabling him to obtain permanent caste certificate, as he had already produced temporary caste certificate, but in no case, the services of the petitioner could have been terminated merely because temporary caste certificate has been filed that he belongs to ST category. Accordingly, the order passed by the CMHO dated 31-10-2009 is set aside and the matter is remitted to the CMHO, Raigarh. Since the petitioner had already secured permanent caste certificate, he is at liberty to produce the said caste certificate before the CMHO who will consider the same and pass fresh order after hearing the petitioner within 30 days from the date of receipt of a copy of this order.

8. The writ petition is allowed with the aforesaid observation. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge