

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3873 of 2021

Manohar Kumar Gonnade S/o Shri R. C. Gonnade Aged About 52 Years
Presently Posted As Cashier Branch Office-II, Raipur LIC Of India, R/o
Vikash Nagar Colony, Raipura District Raipur Chhattisgarh

---- Petitioner

Versus

LIC Of India Through Its Sr. Divisional Manager, (Disciplinary Authority)
Divisional Office, Lic Marg, Pandri Raipur District Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Mateen Siddiqui, Advocate.
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For Respondent	:	Mr. Himanshu Pandey, Advocate
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Hon'ble Shri Justice P. Sam Koshy
Order on Board

30/07/2021

1. The present writ petition has been filed assailing the charge sheet Annexure P-1 dated 15.07.2021.
2. On plain perusal of the contents of the charge sheet, it appears that the reason for issuance of charge sheet was report received from the office of the Sub Divisional Magistrate, Rajnandgaon whereby it has been stated by the Sub Divisional Magistrate that there was no such caste certificate issued by then Sub Divisional Magistrate, Rajnandgaon as on 15.02.1997 in favour of the petitioner. That based on this, the charge sheet has been issued levelling the charge against the petitioner that he has obtained employment on the basis of a false caste certificate dated 15.02.1997(Annexure P-4).

3. The petitioner primarily is aggrieved of the contents of charge sheet whereby the employer or the Disciplinary Authority has treated the document Annexure P-4 to be the caste certificate issued by the Sub Divisional Magistrate. According to the petitioner he had obtained the employment in the year 1997 as a Typist under the Scheduled Tribe Category and petitioner belongs to the Halba Tribe which falls within the Scheduled Tribe Category. According to the petitioner he has a caste certificate duly issued from the Competent Authority i.e. the office of the Nayab Tahsildar, Rajnandgaon dated 18.10.1995 & 30.08.1991 Annexure P-2 & Annexure P-3 and both these caste certificates were provided to the employer respondent Corporation at the time of appointment. According to the petitioner at the time of appointment in accordance with the then prevailing procedure the employee also had to submit a document attested from a Magistrate, so far as caste status of an employee is concerned. Accordingly Annexure P-4 which is the format maintained under the Corporation at that point of time got obtained by the petitioner and on which the attestation was done by the then Sub Divisional Magistrate, Rajnandgaon taking note of the Annexure P-2 and P-3.
4. According to the petitioner if at all if the respondents had any doubt in respect of the caste status of the petitioner in terms of the settled legal position as laid down by a series of judgment of the Supreme Court, the only recourse available with the respondents was to refer the matter to the High Powered Caste Scrutiny Committee at the State level. The respondent Corporation as such cannot decide or verify the caste status of the petitioner. Moreover, according to the petitioner it is not the stand of the respondent Corporation that Annexure P-2 & P-3 i.e. the actual caste certificate which the petitioner has provided to the respondent Corporation to be either fake, false or fabricated. According to the petitioner in the

absence of any such observation by the Corporation issuance of charge sheet only on the basis of Annexure P-4 is not sustainable at all. According to the petitioner, Annexure P-4 is nothing but an attestation on a format of the employer and for such an attestation normally there are no records maintained because in the capacity of a Magistrate they attest various documents by virtue of their status and that it does not have the record for the reason that it is not out of a proceedings drawn at the level of the Sub Divisional Magistrate or from the office of the Sub Divisional Magistrate. The attestation by the Magistrates are normally done on verification of the documents submitted for attestation.

5. All said and done, since the challenge in the present writ petition is to the charge sheet and scope of interference or the scope of judicial review by the High Court under Article 226 at the charge sheet stage is no longer Res-integra and it has been time and again settled that issuance of a show cause notice or issuance of the charge sheet itself would not be said to be punitive because subject to the employee submitting reply of the charge sheet or a show cause the Disciplinary Authority can still on consideration of the reply drop the proceedings.
6. Given the said legal position as it stands, this Court at this juncture is of the view that, let petitioner if he has not submitted his reply to the charge sheet till now or if he has already made, let petitioner make an additional reply within further period of seven days from today to the authorities who has issued the charge sheet supported with all relevant documents which he intends to rely upon in support of his contentions. The Disciplinary Authority in turn shall consider the contents of the reply and only after due scrutiny of the contents shall take appropriate decision in respect of the next course of action to be taken on the charge sheet Annexure P-1.

7. For a period of seven days that this Court has granted the petitioner time to file additional reply or the reply, as the case may be, the authorities concerned are expected and ordered that they shall not take any coercive steps against the petitioner.
8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit