



W.P(MD)No.15345 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.15345 of 2021
and
W.M.P(MD)Nos.12243 & 12244 of 2021**

L.Ranjani

... Petitioner

VS.

1.Tamil Nadu Adi Dravidar and Tribal Welfare Department,
Represented by its Principal Secretary,
Fort St. George,
Chepauk,
Chennai – 600 005.

2.Tamil Nadu State Level Scrutiny Committee – II,
Represented by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat,
Chennai – 600 009.

3.Director of Director Tribal Welfare,
Adi Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 600 005.

4.The Deputy General Manager,
O/o. Principal General Manager,
BSNL, Trichy – 620 001.

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents in the impugned order passed by the second respondent in proceeding No.4089/CV-2(2)/2017-7, dated 11.02.2021 to quash the same and consequently, direct the fourth respondent to release the ex-gratia, pension amount and pension pay order (PPO).

For Petitioner	: Mr.R.Vigneswaran for Mr.M.P.Senthil
For RR 1 to 3	: Mr.M.Sarangan Additional Government Pleader
For R – 4	: Mr.D.Shanmugaraja Sethupathy

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

Challenging the impugned order passed by the second respondent in proceeding No.4089/CV-2(2)/2017-7, dated 11.02.2021, the petitioner has filed the present Writ Petition and consequently, directing the fourth respondent to release the ex-gratia, pension amount and pension pay order (PPO).



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2.The petitioner was provisionally appointed as a 'short-duty telephone operator' at Sivagangai and served in various posts and continued in the post of Senior Telephone Operator. In the year 2000, the Government converted the Department of Telecommunication (DOT) into BSNL from 01.10.2000. The petitioner's Community Certificate has been referred to the State Level Scrutiny Committee for verification. On 11.08.2017, the petitioner received a letter from the Deputy Superintendent of Police, Social Justice and Human Rights, directing the petitioner to appear before him on 17.08.2017 at 10.00 a.m., with all the records. She appeared before the said Deputy Superintendent of Police and produced all the relevant records. Further, she submitted that the petitioner has received a letter from the third respondent requesting her to send a written reply/objection to the report submitted by the vigilance cell within a period of two weeks. On 22.04.2019, the petitioner submitted a detailed reply to the third respondent pointing out the infirmities innate in the report submitted by the Vigilance cell and raised her concern over the veracity of the report, since they failed to appreciate any of the evidences and documents submitted by her at the time of initial investigation which was conducted on 17.08.2017. Thereafter, the second respondent has served a letter, dated 22.12.2020,

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addressed to the Deputy General Manager, directing the petitioner to appear before the State Level Scrutiny Committee for enquiry on 28.12.2020 at 11.00 a.m.

3.It is an admitted fact that the petitioner received the message of the aforesaid communication through whatsapp at around 05.30 p.m., on 26.12.2020 and the petitioner also sent a letter, dated 26.12.2020 to the State Level Scrutiny Committee seeking time for appearing the enquiry. But the second respondent, without providing an opportunity to the petitioner, has passed the final order by rejecting the claim of the petitioner stating that the petitioner did not belong to "Kattunayakan Scheduled Tribe Community". Challenging the aforesaid order, the petitioner has filed the writ petition on the ground that the petitioner's community certificate was issued prior to 11.11.1989, therefore, the State level Scrutiny Committee has no jurisdiction to verify the community certificate issued by the Tahsildar, which is prior to 11.11.1989 and various grounds have been raised by the petitioner by attacking the impugned order passed by the second respondent.



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4.At the time of hearing the matter, the petitioner has fairly accepted that the order of the second respondent violates the principles of natural justice and if opportunity is granted to the petitioner to putforth her contention by producing the documents to establish her community as "Kattunayakan Scheduled Tribe Community". Therefore, on the short ground, she seeks to set aside the order passed by the second respondent and to provide an opportunity to the petitioner for producing all the documents before the second respondent.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner did not appear before the aforesaid enquiry conducted on 28.12.2020 and the petitioner has already received a letter from the third respondent directing the petitioner to send a written reply/objections to the report submitted by the vigilance cell and she filed an objection for the aforesaid report and therefore, the petitioner was provided with an opportunity and her objection was duly considered and on perusal of the documents, the second respondent passed the impugned order, which do not warrant interference.



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7. The point for consideration in the present Writ Petition is that whether the petitioner was provided with an opportunity of hearing while passing an impugned order.

8. The brief facts of the case is that when the petitioner secured the job in the respondent department under Kattunayakan Scheduled Tribe Community, which was issued by the Tahsildar, the respondent BSNL has referred the said Community Certificate to the State Level Scrutiny Committee for verification of the documents. The third respondent has furnished the copy of the report submitted by the Vigilance cell to the petitioner on 05.03.2019 and the petitioner also submitted her objection for the aforesaid report on 22.04.2019. That being so, the petitioner has received the communication from the second respondent to appear for enquiry on 28.12.2020 at 11.00 a.m., and the said communication was received by her on 26.12.2020 and therefore, no sufficient time was granted to the petitioner to make her objection or submission before the State Level Scrutiny Committee. Therefore, the second respondent violates



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the principles of natural justice for not providing sufficient opportunity to the petitioner.

9.On perusal of the impugned order passed by the second respondent in paragraph No.6, it is stated that “the individual has been called to appear for State Level Scrutiny Committee enquiry on 28.12.2020. But she was absent on that date” and therefore, it is quite clear that the petitioner did not appear on that day and it is also recorded in the impugned order. The second respondent, based on the available records and the objection, has passed the impugned order, however, it requires for providing an opportunity of hearing to the petitioner. Therefore, the second respondent has violated the principles of natural justice for giving an opportunity of hearing to the petitioner to make her submission at the time of hearing.

10.In view of the above, we are of the considered view that the aforesaid impugned order, dated 20.02.2021 passed by the second respondent is liable to be set aside and the same is set aside and the matter is remanded back to the second respondent to consider and pass appropriate orders, after providing an opportunity of hearing to the petitioner.

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11.The petitioner undertakes that she is ready to appear before the State Level Scrutiny Committee on the hearing date fixed by the second respondent.

12.Recording the aforesaid statement, we direct the second respondent to serve a notice to the petitioner directly by fixing the date of enquiry and communicate the same to the BSNL within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said notice, the petitioner, without any default, shall appear for enquiry on the date fixed by the second respondent and produce all the documents and submission before the second respondent. If the petitioner has filed any additional document and submission, the same shall be considered and final orders be passed by the second respondent within a period of twelve weeks from the date of receipt of a copy of this order.

13.With regard to the second limb of the prayer, the petitioner seeks liberty to approach the authority concerned.



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14. With the above direction, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
09.12.2022

Index : Yes / No

Internet : Yes

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To

1. Tamil Nadu Adi Dravidar and Tribal Welfare Department,
Represented by its Principal Secretary,
Fort St. George,
Chepauk,
Chennai – 600 005.
2. Tamil Nadu State Level Scrutiny Committee – II,
Represented by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat,
Chennai – 600 009.
3. Directorate of Director Tribal Welfare,
Adi Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 600 005.
4. The Deputy General Manager,
O/o. Principal General Manager,
BSNL, Trichy – 620 001.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 09.12.2022

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