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ORDER SHEET
WPO/1303/2007
IA NO:GA/1/2008 (Old No.GA/2026/2008)
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SHRI DURGESH
VERSUS
CHIEF SECURITY COMMISSIONER, R.P.F. AND OTHERS

BEFORE:
The Hon'ble JUSTICE JOYMALYA BAGCHI
Date: 18th January, 2023.

Appearance:
Mr. Bikram Banerjee, Adv.
Mr. Sudipta Dasgupta, Adv.
Mr. Arka Nandi, Adv.
Ms. Dipa Acharyya, Adv.
Mr. Sutirtha Nayek, Adv.
...for the petitioner

Ms. Aparna Banerjee, Adv.
...for the respondent

The Court: The petitioner was appointed as a constable in the year 1980. At the time of his appointment, he submitted a ST certificate issued by SDM, Bansgaon. In 1997, a vigilance inspection was initiated. Petitioner approached this Court in WP No.11512(W) of 1997. The matter was disposed of directing the petitioner to appear before the Vigilance Officer and the latter was directed to disclose to the petitioner the subject matter of the investigation. Thereafter, the petitioner was intimated that he is to respond to the allegations that he had

managed to procure appointment in R.P.F. Department on the strength of a fake ST certificate. Pursuant to the preliminary enquiry, a charge-sheet was served upon the petitioner. Petitioner assailed the charge-sheet in WP No.564 of 1998. This Court by order dated 7.4.1998 directed that the petitioner shall participate in the enquiry and the respondent may take a final decision but no effect shall be given to the decision without the leave of the Court. Subsequently, the matter stood dismissed for default. The enquiry proceeded against the petitioner. Finally, petitioner was terminated on 24.9.2007. This is the subject matter of challenge in the present writ petition.

Learned counsel for the petitioner submits that he is a member of the Scheduled Tribes Community. In the course of enquiry, a certificate issued by the Tehsildar dated 12th September, 1997 was placed before the Enquiry Officer. This has not been taken into consideration. He further submits the status of the petitioner as a member of Scheduled Tribes cannot be decided by the Disciplinary Authority in view of the directions given in *Madhuri Patil versus Addl. Commr. Tribal Development* [(1994)6 SCC 241]. Hence, the order of termination is liable to be set aside.

Learned counsel for the respondent submits that the enquiry was conducted as per the extant rules and an opportunity was given to the petitioner. Crux of the accusation against the petitioner was not his status as a member of the Scheduled Tribes but submission of a fake certificate at the time of appointment.

I have considered the rival submissions at the bar. I have also perused the Enquiry Report. Petitioner had submitted a certificate dated 11th October, 1981 claiming to be a member of the Scheduled Tribes Community issued by SDM/Bansgaon. Requisition was sent to SDM/ Bansgaon, Exhibit – III, for verification of the document. In response, Tehsildar, Bansgaon submitted the following reply.

- “1. The said ST certificate has no serial no. of register.*
- 2. Cast certificate in Bansgaw, Tahasil is being issued by Tahasildar only where as ST certificate in question was shown to be issued by SDM/Bansgaw.*
- 3. There is no existance of any stamp in which English in letter is used in the office of SDM/ Bansgaw.*
- 4. Signature of SDM is false.*
- 5. This certificate is suspicious”*

This has been exhibited as Exhibit – IV.

Petitioner took a defence that he had not submitted the said document. On the contrary, he relied on a subsequent certificate dated 14.3.1997 which showed he is a member of the Scheduled Tribes Community. Disciplinary Authority rightly discounted such defence. Gist of the accusation against the petitioner was submission of a fake caste certificate at the time of appointment. Report of the Tehsildar, Exhibit – III showed the caste certificate dated 11th October, 1981 was a fake one. The plea of the petitioner that he had not submitted the certificate is a desperate one. The document was a part of his

service records maintained in ordinary course of business. A subsequent certificate relied by the petitioner is of little consequence to the subject matter of enquiry. The purpose of the enquiry was not to determine the status of the petitioner as a member of the ST Community. What the Disciplinary Authority had gone into was the conduct of the employer to submit a fake document at the time of appointment. Report of the Tehsildar Exhibit – IV clearly establishes such fact. Hence, there is no illegality in the decision making process nor is there any perversity in the decision so taken.

In light of the aforesaid discussion, the Writ Petition is dismissed.

(JOYMALYA BAGCHI, J.)

B.Pal/sp