IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 7848/2019

Jyoti W/o S.K. Matia, Ex-Director NCDC, New Delhi, aged about 62 years, R/o 162, Swamy Colony, Katol Road, Aakar Nagar, Nagpur – 440 013. **PETITIONER**

.....VERSUS.....

1. Union of India, Through Secretary, Ministry of Agriculture and Farmers Welfare, Krishi Bhawan, New Delhi – 110 001.

2. The Secretary, Ministry of Agriculture and Farmers Welfare, Department of Agriculture, Co-operation and Farmers Welfare, Krishi Bhawan, New Delhi - 110 001, and Chairman, Board of Management, National Cooperative Development Corporation, Krishi Bhawan, New Delhi – 110 001.

3. The National Co-operative Development Corporation, through its Managing Director, 4, Siri Institutional Area, Hauz Khas, New Delhi. **RESPONDENTS**

Shri S.P. Dharmadhikari, Senior Advocate with Shri C.S. Dharmadhikari, counsel for the petitioner.
Shri C.J. Dhumane, counsel for the respondent nos.1 and 2.
Mrs. B.M. Kasare, counsel for the respondent no.3.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE ON WHICH ARGUMENTS WERE HEARD : JULY 27, 2023
DATE ON WHICH JUDGMENT IS PRONOUNCED : OCTOBER 13, 2023

JUDGMENT (PER : A.S. CHANDURKAR, J.)

In view of notice for final disposal issued earlier, we have heard the learned counsel for the parties by issuing **RULE** and making it returnable forthwith.

2. The challenge raised in the present writ petition is to the order dated 06.08.2019 passed by the Central Administrative Tribunal, Nagpur in Original Application No. 2166 of 2019. By the said order the original application preferred by the petitioner for challenging the orders passed in the disciplinary proceedings resulting in dismissal of the petitioner from service came to be rejected.

3. The facts relevant for considering the challenge as raised are that the petitioner claims to belong to 'Mannewar' Scheduled Tribe. On the basis of the tribe certificate dated 05.07.1980 issued by the District Magistrate, Nagpur the petitioner came to be appointed on the post of Assistant at the National Co-operative Development Corporation – 'the Corporation' for short. According to the petitioner on rendering satisfactory service she came to be promoted during the course of service. On 22.12.2004 the Corporation issued a memorandum to the petitioner calling upon her to submit all original documents pertaining to her tribe claim. The petitioner submitted the relevant documents alongwith her father's tribe certificate. The Corporation demanded further documents from the petitioner from time to time which she claims to have been duly supplied. On 21.04.2010 another memorandum was issued to the petitioner stating therein that her tribe certificate was not yet verified by the competent Scrutiny Committee. She was therefore called upon to submit all necessary documents and further relevant information for this purpose. In response

the petitioner by her reply dated 24.05.2010 submitted that on an earlier occasion memorandum dated 10.01.2005 had been issued in the same matter and after considering the petitioner's reply no further steps were taken by the Corporation. It was stated that since the petitioner was appointed in the year 1981 her issue with regard to her status ought to be decided on the basis of the documents submitted by her from time to time. On 07.09.2010 the petitioner was informed by the Corporation that her representation had been considered and with the approval of the Competent authority her case was closed.

4. According to the petitioner a complaint came to be made to the Corporation by one Shri Dhirender Kumar raising a doubt about the tribal status of the petitioner. Acting on the same, the Deputy Managing Director, Personnel and Administration Division of the Corporation issued a memorandum to the petitioner on 30.11.2016. The petitioner was called upon to explain within a period of ten days as to why disciplinary action should not be taken against her for adopting illegal means to secure a job in the corporation by producing a fake/forged tribe certificate. The petitioner replied to the same on 09.12.2016 but not being satisfied with the same, memorandum dated 22.12.2016 came to be issued proposing to hold an enquiry against the petitioner under Regulation 41 of the N.C.D.C. Service Regulations, 1967 – 'the Service Regulations' for short. As per the statement of Articles of Charge it was stated that the petitioner had furnished

certificate dated 05.07.1980 issued by the Executive Magistrate to claim that she belong to Scheduled Tribe. It had come to the knowledge of the Corporation that the certificate furnished by the petitioner was fake/forged. In terms of the appointment order as the information furnished by the petitioner was found to be false her appointment would be void *ab-initio*. The services of the petitioner were also placed under suspension by another order issued on 22.12.2016. A disciplinary enquiry was accordingly held against the petitioner. On 18.07.2017 the Managing Director of the Corporation informed the petitioner that the Disciplinary Authority had ordered continuation of her suspension till her retirement that was to take place on 31.08.2017. The petitioner had challenged the charge-sheet as issued to her by filing Original Application No. 1216 of 2017 which came to be dismissed by the Principal Bench of the Central Administrative Tribunal, New Delhi on 19.07.2018. A direction however was given to conclude the disciplinary proceedings within a period of six months. The petitioner filed another Original Application No. 3380 of 2017 raising a challenge to the order dated 31.08.20178 by which her retiral benefits were withheld subject to the outcome of the departmental proceedings. The said Original Application was disposed of on 9.07.2018 by directing the Corporation to release an amount of Rupees Five Lakhs tentatively towards the amount of leave encashment. A further direction was issued to conclude the enquiry within a period of six months.

5. On the conclusion of the departmental proceedings, the Disciplinary Authority considered the enquiry report. After considering the petitioner's representation against the said enquiry report, the Managing Director of the Corporation as Disciplinary Authority passed an order on 18.10.2018 and held that in the light of the material before the Enquiry Officer it was found that the petitioner had secured employment in the Corporation by producing a forged/fake tribe certificate and that the charge as framed was fully proved against her. Her appointment was therefore liable to be treated as void *ab-initio*. Accordingly, major penalty of dismissal from service came to be issued. Similarly the post-retiral benefits excluding the amount of Rupees Five Lakhs received by the petitioner came to be forfeited. The petitioner preferred an appeal against the order of dismissal and on 10.06.2019 the Appellate Authority confirmed the major penalty of dismissal from service and dismissed the appeal.

Being aggrieved the petitioner approached the Central Administrative Tribunal by filing Original Application No. 2166 of 2019 so as to challenge the order passed by the Disciplinary Authority as confirmed by the Appellate Authority. On the issue of reference of the petitioner's certificate to the Scrutiny Committee it was observed that since there was no tribe certificate in existence as per the records of the District Magistrate there was nothing that could have been referred to the Scrutiny Committee either by the petitioner or by the Corporation. Since the petitioner's service was found to be void she was not entitled to any benefit whatsoever. The

Original Application accordingly came to be dismissed. As a consequence, the Corporation on 13.11.2013 issued a communication to the petitioner calling upon her to refund the amount of Rupees Five Lakhs to the Corporation within a period of one month from the date of the order. This was followed by various reminders being issued by the Corporation. It is in this context that the petitioner has raised a challenge to the order passed by the Central Administrative Tribunal dated 06.08.2019 alongwith various ancillary prayers being made against the Corporation.

6. Shri S.P. Dharmadhikari, learned Senior Advocate for the petitioner in support of the challenge to the order passed by the Central Administrative Tribunal submitted that the respondent no.3 had accepted the petitioner's representation dated 24.05.2010 that was submitted in response to the memorandum dated 21.04.2010 and had closed the case of the petitioner in the matter of verification of her caste status vide communication dated 07.09.2010. The petitioner had been subsequently promoted to the post of Deputy Director and thereafter to the post of Director. On the very same grounds the issue with regard to her social status was sought to be re-opened vide memorandum dated 30.11.2016. It was submitted that this was in the light of a complaint sought to be made by one Shri Dhirender Kumar who had no connection whatsoever with the affairs of the Corporation. The petitioner was being vexed twice on the same issue and hence the initiation of the disciplinary proceedings was itself

misconceived. Despite responding to the said memorandum and bringing this fact to the notice of the Corporation, the enquiry came to be held. It was further submitted that the relevant records at the Office of the Naib Tahsildar were stated to be not available. Without verifying the existing record the Enquiry Officer arrived at a conclusion that the petitioner's tribe certificate was fake and forged. There was no evidence whatsoever to hold that the said certificate was forged. It was also to be noted that the Enquiry Officer had no authority in law to go into the question of validity of the petitioner's tribe claim. After rendering service of almost forty years the punishment of dismissal was inflicted on the petitioner after her superannuation. It was urged that the petitioner having superannuated on 31.08.2017 it was not permissible for the Enquiry Officer to have proceeded further with the enquiry thereafter. Despite the petitioner's protest the enquiry was held even after her superannuation and the enquiry report was submitted on 04.04.2018. Referring to Rule 2(d) of the Central Civil Services (Pension) Rules, 1972 (for short, 'the Rules of 1972') it was submitted that since the petitioner was entitled to receive contributory provident fund, the said Rules of 1972 and especially Rule 9(2) thereof on which the Corporation sought to rely upon was not at all applicable to the case of the petitioner. In other words, it was submitted that since the provisions of Rule 9(2) of the Rules of 1972 were not applicable to the case of the petitioner it was impermissible for the Enquiry Officer to continue with the enquiry after the petitioner's superannuation on 31.08.2017. In that regard, the learned Senior Advocate placed reliance on the decisions in *Chairman-cum-Managing Director, Mahanadi Coalfields Limited Versus Rabindranath Choubey* [**(2020) 18 SCC 71**], *Bhagirathi Jena Versus Board of Directors, O.S.F.C. & Others* [**(1999) 3 SCC 666**] and *Dev Prakash Tewari Versus Uttar Pradesh Cooperative Institutional Service Board, Lucknow & Others* [**(2014) 7 SCC 260**]. Despite urging all this before the Tribunal the same were not considered in the proper perspective and the punishment imposed by the Corporation was upheld. The petitioner could not be deprived of the benefits that had accrued to her having rendered long service of about forty years. It was thus submitted that after setting aside the impugned orders, the reliefs prayed for by the petitioner be granted.

7. Ms B.M. Kasare, learned counsel appearing for the Corporation submitted that the petitioner was appointed on a post that was reserved for the candidates from the Scheduled Tribe category. In the order of appointment dated 17.09.1980 it was clearly stated that if the declaration given or information furnished by the petitioner was found to be false the petitioner was liable to be discharged from service and the Corporation was free to take appropriate action against her. Since it was found during the course of enquiry that the tribe certificate dated 05.07.1980 was not available on record of the concerned Authority it was clear that by furnishing incorrect information that the petitioner belonged to Scheduled Tribe she had secured employment. The proceedings that were closed in the

year 2010 were with regard to the requirement to seek verification of the petitioner's social status. The issue with regard to the genuineness of the petitioner's tribe certificate was not the subject matter of said proceedings. The conduct of the enquiry on the basis of a complaint received was thus justified in the facts of the case. Reference was made to Regulations 41 to 44 of the Regulations of 1967 to indicate that full opportunity was given to the petitioner to rebut the charges levelled against her. The Disciplinary Authority and thereafter the Appellate Authority had considered all relevant aspects. The Tribunal being satisfied with action taken against the petitioner it rightly did not interfere with the order of punishment as imposed. It was permissible for the Corporation to continue the enquiry after the petitioner's superannuation in view of Rule 9(2) of the Rules of 1972. Since the post in question on which the petitioner was appointed was reserved for members from the Scheduled Tribe category and it had been found that there was no record of the petitioner's tribe certificate it was clear that the appointment of the petitioner was void ab-initio. The petitioner was therefore rightly deprived of the benefits accruing to her on her superannuation. The impugned order therefore did not call for any interference.

Shri C.J. Dhumane, learned counsel for the respondent nos.1 and 2 adopted the submissions made on behalf of the Corporation and supported the impugned order.

8. We have heard the learned counsel for the parties and we have also perused the documentary material on record. We have also given thoughtful consideration to the rival submissions. At the outset, we may consider the objection raised by the petitioner to the initiation of the disciplinary proceedings pursuant to the memorandum dated 30.11.2016 proposing to enquire into the imputations made in the said memorandum. It is the case of the petitioner that as the very same issue was considered by the Corporation and the same was closed on 07.09.2010 with the approval of the Competent Authority, it was not permissible for the Corporation to re-open that very issue again. To consider this aspect it would be necessary to note that the petitioner while seeking appointment on the post of Assistant with the Corporation claimed to belong to 'Mannewar' Scheduled Tribe. She had tendered certificate dated 05.07.1980 stated to be issued by the Executive Magistrate, Nagpur. The tribe claim of the petitioner had not been verified and therefore the petitioner was issued a memorandum on 21.04.2010 in which it was stated that since such verification by the Scrutiny committee was a mandatory requirement, she was required to submit all relevant documents and fill in the requisite forms giving various details alongwith her affidavit. In response to this memorandum the petitioner on 24.05.2010 issued a communication to the Managing Director stating therein that the Corporation had issued the said memorandum on the basis of an anonymous complaint received by it. She further stated that the requirement of verification of the tribe certificate was only with regard

to an appointment made after 18.10.2001 since that was the date when the provisions of the Maharashtra Scheduled Castes and Scheduled Tribes De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2001 came into force. Since the petitioner was appointed much prior to enforcement of that Act it was not necessary for her to have her tribe claim verified. The petitioner therefore requested the Corporation that the said issue be decided on the basis of documents that were already submitted. The Administration Department of the Corporation on 07.09.2010 informed the petitioner that her representation dated 24.05.2010 had been considered and with the approval of the Competent Authority the case was closed.

It becomes clear on a perusal of the memorandum dated 21.04.2010 and the petitioner's reply dated 24.05.2010 that the issue under consideration was the requirement of having the petitioner's tribe claim verified by the Scrutiny Committee. With the response of the Corporation dated 07.09.2010 stating therein that the said matter was closed the only conclusion that could be drawn is that the Corporation did not deem it necessary to require the petitioner to have her tribe claim verified. Beyond this, no further inference can be drawn especially the inference that the appointment of the petitioner had been made on the basis of a valid tribe certificate dated 05.07.1980 that was submitted by her. Since the issue with regard to the authenticity of the tribe certificate submitted by the petitioner was not in issue when the memorandum dated 21.04.2010 was issued, the contention of the petitioner that initiation of the departmental proceedings pursuant to the memorandum dated 22.12.2016 sought to re-open the issue that was already concluded cannot be accepted. This is also clear on reading the statement of allegations and imputations of misconduct that was part of the memorandum dated 22.12.2016. The conduct of the departmental enquiry is therefore not with regard to a matter that was considered earlier vide memorandum dated 21.04.2010. The initiation of the departmental enquiry therefore was permissible.

9. Another objection raised by the petitioner is to the continuation of the departmental enquiry which had commenced when the petitioner was in service and was concluded after her superannuation. The departmental enquiry commenced with the service of the memorandum dated 22.12.2016 alongwith which the statement of allegations was served on the petitioner. On the same day the services of the petitioner were placed under suspension. On expiry of a period of ninety days of suspension, an order was passed on 20.03.2017 extending the period of suspension for another 120 days. The extended period of suspension was to expire on 19.07.2017 and hence on 18.07.2017 the period of suspension was continued till the petitioner's retirement on 31.08.2017. It is to be noted that the petitioner had challenged the initiation of the disciplinary proceedings as well as had prayed for setting aside the charge-sheet dated 22.12.2016 by filing Original

Application No.1216 of 2017. In the said proceedings, the issue with regard to initiation of the disciplinary proceedings as well as its continuation after her superannuation was challenged. This original application came to be dismissed on 19.07.2018 holding that there was no ground made out to interfere with the charge-sheet. This order passed by the Tribunal was not subjected to any further challenge and the same attained finality. It is to be noted that the petitioner had also filed Original Application No. 3380 of 2017 raising a challenge to the order dated 31.08.2017 by which her retiral benefits such as gratuity, leave encashment, etc. were withheld making them subject to the outcome of the departmental enquiry. Even in these proceedings the issue with regard to continuation of the departmental proceedings after the petitioner's superannuation was raised. By the order dated 19.07.2018 the Corporation was directed to release an amount of Rupees Five Lakhs tentatively towards entitlement of the petitioner towards leave encashment. A further direction was issued to the Enquiry Officer to conclude the disciplinary proceedings within a period of six months from the date of the order. The petitioner accepted the said order and did not challenge the same any further.

10. We thus find from the aforesaid proceedings that the issue with regard to initiation of the departmental enquiry and its continuation after the petitioner's superannuation was specifically raised by the petitioner in the earlier proceedings filed before the Tribunal. The challenge of the petitioner was not successful. The petitioner accepted the said orders as

well as the direction to co-operate in the expeditious conclusion of the disciplinary proceedings. On this count the petitioner is now precluded from seeking to re-open these issues that have attained finality in the earlier round of litigation initiated by the petitioner. On principles analogous to constructive *res-judicata*, it would not be permissible for the petitioner to urge that the Corporation had no authority under the Rules of 1972 to continue the departmental enquiry after her superannuation. Advisedly this issue as regards authority of the Corporation to continue the departmental enquiry after the petitioner's superannuation was not specifically urged before the Tribunal in Original Application No. 2166 of 2019 that was decided on 06.08.2019 and which order is the subject matter of challenge in this writ petition.

We therefore find that this issue with regard to continuation of the disciplinary proceedings post superannuation of the petitioner cannot be permitted to be agitated in the present proceedings.

11. Having found that there was no legal impediment before the Corporation in continuing the disciplinary proceedings against the petitioner even after her superannuation, it would now be necessary to consider the challenge to the order of the Tribunal on its merits. A perusal of the proceedings before the Enquiry Officer indicates that the charge leveled against the petitioner was that when the petitioner had sought appointment on the post of Assistant with the Corporation on a post reserved for the

Scheduled Tribe candidates, she had furnished a certificate bearing Revenue No.812/MRC.81/79-80 dated 05.07.1980 stated to be issued by the Executive Magistrate. The said certificate stated that the petitioner belonged to 'Mannewar' Scheduled Tribe. The charge further states that it had come to the knowledge of the Corporation that the certificate furnished by the petitioner at the time of her appointment was fake/forged. As per the terms and conditions of her appointment if any declaration or information furnished by her was proved to be false she was liable to be discharged from the services of the Corporation besides any other action which the Corporation could initiate. It was thus stated that the appointment of the petitioner was vitiated by fraud, forgery and illegality rendering it void *ab-initio*. The appointment was stated to be in breach of the terms and conditions mentioned therein. In the statement of allegations reference was made to the communication dated 14.10.2016 issued to the Office of the District Magistrate, Nagpur with a request to verify the genuineness of the tribe certificate dated 05.07.1980 submitted by the petitioner. It was further stated that the District Magistrate, Nagpur by letter dated 04.11.2016 had informed that certificate bearing the same number and date of the certificate submitted by the petitioner had been issued to one Shri Panjabrao Harde and that there was no entry in any of the registers maintained by the said Office of issuance of any tribe certificate in the name of the petitioner.

12. In the enquiry proceedings on 12.07.2017 the petitioner denied the charges framed against her. By the communication dated 03.08.2017 the petitioner was requested to attend the proceedings on 18.08.2017 at the Office of the District Magistrate, Nagpur. The petitioner refused to attend the said hearing on 18.08.2017. Thereafter on 21.08.2017 at the request of the petitioner a summons was issued to one Shri Dhirender Kumar to attend the enquiry. However in view of the incomplete address furnished that notice was not served. The petitioner thereafter sought for change of the Enquiry Officer and by an order dated 13.12.2017 the Enquiry Officer was changed. The Enquiry Officer then on 18.12.2017 issued a notice to the petitioner to attend the hearing of the proceedings on 27.12.2017. The petitioner however by her letter dated 26.12.2017 informed the Enquiry Officer that she had approached the Tribunal raising a challenge to the enquiry proceedings and prayed that the same be kept in abeyance. This request was accepted and thereafter on 05.01.2018 notice was issued to the petitioner to attend hearing on 12.01.2018. At the request of the petitioner the proceedings were adjourned to 31.01.2018. Despite receiving notice of the said proceedings on 19.01.2018 the petitioner remained absent on 31.01.2018. Thereafter the Enquiry Officer on 08.02.2018 requested the District Magistrate, Nagpur to conduct the proceedings at its Office on 15.02.2018 at 10.30 A.M. in the presence of the Tahsildar, Nagpur and others connected with the matter. The petitioner was also directed to remain present on that date. On 15.02.2018 the petitioner failed to remain present despite having confirmed the receipt of

the letter dated 08.02.2018. On the said date, the Presenting Officer showed the Tahsildar, Nagpur the communication dated 04.11.2016 issued from the Office of the Collector Nagpur and he stated that the contents of the said letter were correct. As the petitioner was absent, the Tahsildar could not be cross-examined. It is thereafter that the Enquiry Officer concluded the proceedings with his opinion that the petitioner was guilty of production of fake/forged certificate with a view to derive the benefit of concession meant for the members from the Scheduled Tribe community.

13. The petitioner submitted her detailed representation against the enquiry report on 04.09.2018 and after considering the same the Managing Director and the Disciplinary Authority agreed with the opinion of the Enquiry Officer and held that the charge was fully proved against the petitioner. He treated the appointment of the petitioner as being vitiated by fraud, forgery and illegality thus being void *ab-initio*. The Disciplinary Authority proceeded to impose major penalty of dismissal from the services of the Corporation. As a consequence the post-retiral benefits of the petitioner were forfeited after noting that the amount of Rupees Five Lakhs towards leave encashment had been paid to the petitioner tentatively.

The petitioner preferred an appeal against the order passed by the Disciplinary Authority on 06.12.2018. The appeal was considered by the Appellate Authority and the same was dismissed on 10.06.2019. The findings recorded by the Enquiry Officer and the punishment order issued by the Disciplinary Authority were upheld.

14. The Tribunal while considering the challenge to these orders observed that there was no tribe certificate of the petitioner in existence as per the records of the District Magistrate, Nagpur and therefore there was nothing that could be referred to the Scrutiny Committee for verification. It was held that since the petitioner's services were void, no benefit could flow from the same. The original application was thus dismissed after which the Corporation on 13.11.2019 sought refund of the amount of Rupees Five Lakhs paid to the petitioner towards the amount of leave encashment.

15. The scope of judicial review while entertaining a challenge to the outcome of a departmental enquiry is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. An adjudication cannot be undertaken of the case of merits as an Appellate Authority. Reference in this regard can be made to the decision in *Deputy General Manager (Appellate Authority) & Others Versus Ajai Kumar Srivastava* [**(2021) 2 SCC 612**] wherein it has been observed that interference with the finding of fraud arrived at in disciplinary proceedings would be permissible only in case of *mala fide*s or perversity. If there is some evidence available to support the findings arrived at in the disciplinary proceedings the same is liable to be sustained. Viewed from this legal perspective, we find that the communication dated 14.10.2016 by the Chief Vigilance Officer of the Corporation to the District Magistrate, Nagpur seeking to confirm the tribe certificates dated 05.07.1980 and 26.05.1981 that were furnished by the petitioner with the signature and

stamp of the Magistrate/Executive Magistrate, Nagpur alongwith the reply of the Collector and District Magistrate, Nagpur dated 04.11.2016 stating that these certificates were not shown to be issued to the petitioner but to the persons other than the petitioner are sufficient to sustain the finding recorded by the Enquiry Officer that the charge framed against the petitioner was duly proved. We do not find that there is any material whatsoever to either hold that there was any procedural irregularity in the conduct of the disciplinary proceedings or that it is a case where there is no evidence to support the conclusion of the Enquiry Officer. The petitioner had sufficient opportunity to substantiate her contention as regards genuineness of the certificates dated 05.08.1980 and 26.05.1981 that were produced by her. She failed to do so. The Presenting Officer brought on record the material in the form of communication dated 04.11.2016 by the District Magistrate Nagpur in which it was stated that these certificates were not shown to be issued to the petitioner. The petitioner failed to rebut this communication in any manner whatsoever. We therefore do not find any reason whatsoever to interfere with the report of the Enquiry Officer.

16. Coming to the imposition of penalty of dismissal from service, it is seen that the order of appointment issued to the petitioner on 17.09.1980 in clear terms states that the she was required to produce the certificate of caste/tribe and further that if any declaration given or information furnished by her was found to be false she was liable to be discharged from services. The action in this regard taken by the Disciplinary Authority is in

terms of the petitioner's order of appointment. Dismissal from service has been provided as a major penalty under Clause 38 of the Regulations of 1967. It was urged that since the records from the Office of the Executive Magistrate indicate that the same were in torn condition and were also not traceable as indicated by the communication dated 17.05.2007 issued by the Tahsildar, Nagpur to the petitioner's counsel, it could not be said that the certificate produced by the petitioner was fake/forged. This contention cannot be accepted for the reason that the District Magistrate by his communication dated 04.11.2016 in clear terms has stated that the certificates dated 05.07.1980 and 26.05.1981 which the petitioner had furnished to indicate that she belonged to 'Mannewar' Scheduled Tribe had not been issued by the Office of the Executive Magistrate. In the light of this clear position there could be no doubt that the said certificates produced by the petitioner were false as was stated in the memorandum dated 22.12.2016. The documents could be said to be false in the present context when it was shown that the same did not exist. The charge levelled against the petitioner is specific and it states that all information furnished by her is proved to be false. This charge is thus clearly brought home in the enquiry proceedings. It was urged out that the Enquiry Officer in the proceedings held on 15.02.2018 had observed that the certificate dated 05.08.1980 *prima-facie* appears to be forged. On the basis of such *prima-facie* observation the petitioner could not have been dismissed from service. We do not find that the Enquiry Officer has recorded any *prima-facie* finding in his report. The entire material on record alongwith the enquiry report clearly indicate that a conclusive finding has been recorded by the Enquiry Officer that the petitioner had submitted fake/forged caste certificate. A stray observation during the course of enquiry proceedings cannot be read out of context. The enquiry report would have to be read as a whole.

17. Perusal of the order passed by the Tribunal indicates that it has considered the orders passed by the Disciplinary Authority as well as the Appellate Authority. It has thereafter recorded a finding that the imposition of penalty was after taking into consideration the law laid down by the Hon'ble Supreme Court in *R.Vishwanatha Pillay Versus State of Kerala* [**AIR 2004 SC 1469**] and *Chairman and Managing Director, F.C.I. Versus Jagdish Balaram Bahira & Others* [**AIR 2017 SC 327**1]. In these circumstances the Tribunal has refused to interfere with the order imposing penalty. We find that the Tribunal has considered all the relevant aspects urged before it and has rightly refused to interfere with the order imposing penalty. On the aspect of there being no order of invalidation, the Tribunal has noted that since there was no tribe certificate in existence relatable to the petitioner as per the records of the District Magistrate, Nagpur, there was no question of such document being referred to Caste Scrutiny Committee. This aspect of the matter also does not require to be interfered with. Suffice it to observe that in *Jagdish Balaram Bahira & Others* (supra) the Hon'ble Supreme Court has observed in paragraph 44 that the expression "false" must be construed in contra-distinction to that which is true, genuine or authentic. Since the

tribe certificate itself was not found to be existing the expression "false" would have to be construed by holding that the claim made by the petitioner was in contra-distinction to the existence of a validly issued tribe certificate.

18. For aforesaid reasons we do not find that there is any case made out for this Court to interfere in exercise of writ jurisdiction. The punishment of dismissal has been inflicted upon the petitioner after complying with the principles of natural justice and fair play. The petitioner has not been able to rebut the material placed against her in disciplinary proceedings. No other conclusion than the one drawn by the Disciplinary Authority, confirmed by the Appellate Authority and affirmed by the Tribunal is possible. The writ petition therefore stands dismissed. Rule is discharged with no order as to costs. The petitioner is granted time of six weeks to refund the amount of Rs.5,00,000/- [Rupees Five Lakhs] to the Corporation.

(**MRS. VRUSHALI V. JOSHI, J.**) (**A.S. CHANDURKAR, J.**)

APTE