



W.P.No.7800 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.7800 of 2021
and WMP.Nos.8328 and 25194 of 2021

A.Sukumar

.... Petitioner

vs.

1.The State Level Scrutiny Committee III
rep.by its Chairperson/Additional
Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 600 009.

2.The Assistant Commissioner of Police,
SC/ST Vigilance Cell
No.263-B, IDPL Township
Nandambakkam, Chennai 600 089.

3.The Chennai Port Trust,
rep.by its Chairman
No.1, Rajaji Salai, Chennai 600 001.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorari to call for the records pertaining to the impugned
order bearing proceedings No5295/CV-6/2014-15 dated 12.02.2021 of the 1st
respondent and quash the order passed therein. the

For Petitioners : Mr.M.Sureshkumar for Mr.G.P.N.Bharathy



W.P.No.7800 of 2021

WEB COPY

For RR1 & 2 : Mr.S.Kamalesh Kannan
Government Advocate
For RR 3 : Mr.Karthikeyan, Standing Counsel

ORDER

(order of the Court was made by J.Nisha Banu.,J.)

This writ petition is filed by the petitioner praying to quash the impugned order dated 12.02.2021, whereby, the petitioner's community certificate was cancelled by the 1st respondent.

2. It is averred in the writ petition that the petitioner belonging to 'Kondareddis' Community. In the year 1978, he was appointed as a Fireman under the reserved quota for the Scheduled Tribe. The petitioner has retired from service on 31.01.2018, after rendering 40 years of service. The petitioner would state that in November 2017, two months prior to his superannuation, the Vigilance Cell of the Tribal Welfare Department has commenced an enquiry proceedings to verify the veracity of his community certificate. After he was superannuated, and while the enquiry was pending, his terminal benefits were withheld by the 3rd respondent. Challenging the enquiry proceedings, the petitioner has filed W.P.No.22446/2018, and it came to be dismissed with a direction to the petitioner to approach the State Level Scrutiny Committee. In pursuance of the said order, the 1st respondent



W.P.No.7800 of 2021

commenced enquiry proceedings dated 09.11.2020, whereby the petitioner gave his reply and explanations. However without considering the case of the petitioner, the 1st respondent has passed the impugned order, cancelling the community certificate on 12.02.2021. As against the said cancellation, the petitioner has filed this Writ Petition.

3. The learned counsel for the petitioner would contend that the petitioner served in the office of the 3rd respondent for 40 years and he got retired from service on 31.01.2018. The petitioner is now 63 years old and at this stage, cancelling his community certificate is unfair.

4. It is seen from the records that the petitioner retired from service on 31.01.2018 and his terminal benefits were withheld by the respondent. The Government of India have issued guidelines periodically mandating all employers and authorities to undertake verification at the earliest point of time preferably at the time of one's entry into service. In the present case the petitioner, had completed 40 years of unblemished record of service and retired in the year 2018.

5. The petitioner has also stated that in the undertaking affidavit that he



W.P.No.7800 of 2021

will not claim reservation benefits based on his community certificate in future for himself and his family members. The undertaking given by the petitioner is as under:-

“ 9. I respectfully submit that I hereby undertake that neither me nor my family members will claim any reservation or concession based on my community certificate dated 17.06.1976 issued by the Tahsildar, Mambalam-Guindy Taluk and I also further undertake to not claim any concession or reservation which is due under any scheduled Tribe category'.”

The Hon'ble Apex Court in similar circumstances in SLP (C) No.24458 of 2019, dated 03.03.2023, has held as follows:

“It is submitted that the respondent No.1 who served in the Railways has superannuated on 28.02.2022 and therefore, the exercise in this case would largely be academic on the aspect of whether she belonged to the claimed Scheduled Tribe category.

Considering the above, we deem it is appropriate to order for closure of the proceedings.

Accordingly, the Special leave Petition stands disposed of.”

6. In the light of the above decision of the Hon'ble Apex Court and the affidavit filed by the petitioner, we are inclined to record the undertaking affidavit filed by the petitioner and set aside the impugned order dated



W.P.No.7800 of 2021

WEB COPY

12.02.2021. Accordingly, the writ petition stands allowed in terms of the undertaking affidavit of the petitioner dated 15.12.2023. The 3rd respondent is directed to settle the terminal benefits due to the petitioner within 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected WMP is closed.

(J.N.B., J.) (N.M., J.)
22.12.2023

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Index : Yes / No

Internet : Yes / No

To

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Secretary to Government,
The State Level Scrutiny Committee III
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai 600 009.

2.The Assistant Commissioner of Police,
SC/ST Vigilance Cell
No.263-B, IDPL Township
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3.The Chairman,
The Chennai Port Trust,
No.1, Rajaji Salai, Chennai 600 001.

J. NISHA BANU, J.
and



WEB COPY



W.P.No.7800 of 2021

N.MALA, J.

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W.P.No.7800 of 2021

22.12.2023