



WEB COPY



W.P.No.29976 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM

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

W.P.No.29976 of 2023
and
W.M.P.No.29597 of 2023

V.Shanmugaraj
S/o M.Veerasamy

.... Petitioner

vs

The Chairman,
State Level Scrutiny Committee-II,
Additonal Secretary to Government,
Adi-Dravidar and Tribal Welfare (CV3) Department,
Secretariat,
Chennai-9.

.... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent made in Letter No.15717/CVIII(1)/2020-1 dated 19.11.2020 and quash the same and consequently refrain the respondent from making verification in to the petitioner's community after retirement.



WEB COPY



W.P.No.29976 of 2023

For Petitioner : Mr.N.Naganathan

For Respondent : Mrs.Mythreyechandru,
Special Government Pleader

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed challenging the order of the respondent dated 19.11.2020 and consequently refrain the respondent from making verification into the petitioner's community after retirement.

2. The case of the petitioner is that he belongs to Kattunaicken community which is classified as Scheduled Tribe and he was issued with such community certificate by the Tahsildar, Dindugal on 25.03.1978 and his close relatives have been issued with such certificate by the Revenue Authorities. He was selected to the post of running bungalow servant Class IV in the Southern Railway on 24.12.1981. The Southern Railway had verified his community certificate at the time of his appointment and later on confirmed his service and subsequently promoted him to the post of C&W Senior Technician Staff and after completing more than 39 years of service, the petitioner reached superannuation on 31.01.2021. He was sanctioned provisional pension. The other benefits were withheld by the employer and



W.P.No.29976 of 2023

now, he is 63 years old. Two months prior to the petitioner's retirement, the impugned notice dated 19.11.2020 was issued directing the Director of Tribal Welfare, Chennai-5, to verify the community certificate of the petitioner, without any basis. Till date, no order was passed. To verify the community certificate, after a lapse of 44 years from the date of the issuance of the same is a futile exercise. Hence, the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

4. It is seen from the records that the petitioner retired from service on 31.01.2021 and he was sanctioned only provision pension. The other benefits have been withheld by the employer. The petitioner was issued with the community certificate by the Tahsildar, Dindigul on 25.03.1978. He joined service in the Southern Railway on 24.12.1981. At this stage, verification of his community status is uncalled for. 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



W.P.No.29976 of 2023

into service. In the present case, the petitioner has completed 39 years of service and retired in the year 2021.

5. It is pertinent to point out that the Hon'ble Apex Court and various High Courts have time and again stressed that verification after retirement is a wasteful exercise and would be purely academic. In similar circumstances, in SLP(C) No.24458/2019 dated 03.03.2023, the Hon'ble Apex Court 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. Considering the facts and circumstances of the case and in the light of the above decision of the Hon'ble Apex Court, we are inclined to set aside the impugned letter dated 19.11.2020 passed by the respondent. Accordingly,



W.P.No.29976 of 2023

the impugned letter dated 19.11.2020 passed by the respondent is hereby set aside. Accordingly, the Writ Petition stands allowed. However, it is made clear that if the petitioner claims community certificate for his children based on his community certificate, then necessarily, the petitioner's community certificate has to be tested by the respondent. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
03.11.2023

vsi

Index : Yes / No

Internet : Yes / No

To

The Chairman,
State Level Scrutiny Committee-II,
Additional Secretary to Government,
Adi-Dravidar and Tribal Welfare (CV3) Department,
Secretariat,
Chennai-9.



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W.P.No.29976 of 2023

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W.P.No.29976 of 2023

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