



W.P.No.35035 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE N.MALA**

**W.P.No.35035 of 2023
and
W.M.P.Nos.34993 & 34994 of 2023**

N.Chandrasekaran

... Petitioner

Vs.

The Secretary to Government,
Adi-Dravidar and Tribal welfare (CV-4) Department,
Secretariat,
Chennai – 9.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent made in impugned order No.9895/CV-4(2)/2013-6 dated 07.03.2016 and quash the same and consequently refrain the respondent from making verification into the petitioner's community after retirement.

For Petitioner : Mr.N.Naganathan



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For Respondent : Mrs.R.L.Karthika
Government Advocate

ORDER

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

This Writ Petition has been filed challenging the order passed by the respondent dated 07.03.2016 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 Konda Reddy community which is classified as a Schedule Tribe and issued with such certificate by the Head Quarters Deputy Tahsildar, Mettur vide order dated 07.06.1976 and his close relatives have been issued with such certificate by the revenue authorities. The petitioner was selected to the post of Junior Engineer (Civil) in India Post and Telegrams Department (BSNL) on 21.09.1979 and the employer verified his community certificate at the time of his appointment and later on, confirmed his service. Subsequently, he was promoted to the post of Assistant Engineer (Civil) on 01.09.1994 and then promoted to the post of Executive Engineer on 14.12.2010 and after completion of more than 40 years of service, he opted for VRS and he was given VRS on 31.01.2020. He was sanctioned provisional pension and other benefits were withheld by the employer without any basis. The DSP, Vigilance



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Cell called the petitioner for enquiry on 02.11.2020 and it is not necessary to verify his community status after his retirement and the said exercise is one in futility as the petitioner had already retired from service and now, he is aged 63 years. Hence, the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Advocate 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 31.01.2020 and he was sanctioned only provisional pension. The other benefits have been withheld by the employer. The petitioner was issued with the community certificate by the Headquarters Deputy Tahsildar, Mettur on 07.06.1976. He joined service in the India Post and Telegrams Department (BSNL) on 21.09.1979. At the time of his appointment, his community certificate was verified and later on, his serve was also confirmed and subsequently, promotions were granted to him. The petitioner opted for VRS and he retired from service on 31.01.2020. Subsequently, the petitioner was called for enquiry with regard to his community certificate on 02.11.2020. At this stage, verification of his community status is uncalled for. The Government of India have issued guidelines periodically mandating all



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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 has completed 40 years of service and retired in the year 2020.

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



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the impugned letter dated 07.03.2016 passed by the respondent. Accordingly, the impugned letter dated 07.03.2016 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.

Index : Yes / No
Internet : Yes / No
vsi

(J.N.B., J.)

(N.M., J.)

15.12.2023

To

The Secretary to Government,
Adi-Dravidar and Tribal welfare (CV-4) Department,
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