



W.P.No.11390 of 2001

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.11390 of 2001

Indian Bank
Represented by its
General Manager,
No.31, Rajaji Salai,
Chennai – 600 001.

... Petitioner

Vs.

1.The State Human Rights Commission,
Justice Pratap Singh Maligai,
35 Thiru-Vi-Ka Salai,
II Floor,
Royapettah,
Chennai – 600 014.

2.K.Vasumathi

3.The District Collector,
Salem.

... Respondents

[R3 *suo motu* impleaded vide order dated 07.11.2023
made in W.P.No.11390 of 2001]

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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the file of the 1st respondent culminating to the impugned order dated 13.12.2000 in SHRC Case No.3731/2000/RRS and quash the same.

For Petitioner	:	Mr.V.Kalayanaraman for M/s.Aiyar and Dolia
For R1	:	No appearance
For R2	:	Mr.K.Elango

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed challenging the order of State Human Rights Commission, directing the petitioner to reinstate the 2nd respondent in service and to pay a nominal compensation of Rs.10,000/- for violation of Human Rights.

2.It is a peculiar case where the 2nd respondent, who got appointment in the petitioner Bank by producing a Community Certificate stating that



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she belongs to Konda Reddy Community (a community which comes under the list 'Scheduled Tribe'), and lost in establishing her community status as belonging to Konda Reddy Community in the process of verification, made a complaint before the 1st respondent Commission alleging human right violations and got orders for reinstatement and compensation.

3. Brief facts that are necessary for the disposal of this writ petition are as follows :

3.1. The 2nd respondent was originally appointed under the ST Category and joined the services of the petitioner Bank on 11.09.1981. The 2nd respondent produced a Community Certificate, dated 14.09.1978, issued by the Tahsildar, Mettur, certifying that the 2nd respondent belongs to Konda Reddy Community. Based on the complaint received by the petitioner, the genuineness of the Community Certificate produced by the 2nd respondent was referred to the District Collector, who is the Chairman of the District Level Scrutiny Committee for verification. The District Level Scrutiny Committee, which was constituted as per the directions of the Hon'ble Supreme Court in ***Kumari Madhuri Patel v. Additional Commissioner,***



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Tribal Development reported in (1994) 6 SCC 241, passed an order cancelling the Community Certificate, dated 14.09.1978, produced by the 2nd respondent at the time of appointment in the petitioner establishment. Consequent upon the cancellation of the Community Certificate, following the judgment of the Hon'ble Supreme Court in **Director of Tribal Welfare v. Laveti Giri** reported in (1995) 4 SCC 32, by an order dated 20.05.1999, the services of the 2nd respondent was terminated by the petitioner.

3.2.The 2nd respondent filed a writ petition in W.P.No.9148 of 1999 challenging the order passed by the District Level Scrutiny Committee cancelling the Community Certificate. However, the said writ petition was disposed of by this Court by order dated 14.08.2000, directing the 2nd respondent to approach the State Level Scrutiny Committee, which is the Appellate Authority.

3.3.Thereafter, the 2nd respondent also challenged the order of termination, dated 20.05.1999, in W.P.No.11028 of 1999. A learned Single Judge of this Court, by order dated 14.08.2000, dismissed the writ petition.



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4.It appears that the 2nd respondent has not challenged the order of the learned Single Judge dismissing the writ petition in W.P.No.11028 of 1999. It is the specific case of the petitioner that the 2nd respondent has not filed any appeal as against the order of District Level Scrutiny Committee. Despite this Court in W.P.No.9148 of 1999 directed the petitioner to file an appeal before the State Level Committee within two weeks from the date of dismissal of the writ petition, i.e., 14.08.2000, the 2nd respondent has not preferred any appeal to the knowledge of the petitioner. Even before this Court, the 2nd respondent has not produced any papers to point out that the 2nd respondent has filed any appeal or the appeal filed by the 2nd respondent is disposed of in her favour.

5.In the said circumstances, this Court has to examine the jurisdiction of the 1st respondent to entertain the complaint with a prayer that the 2nd respondent should be reinstated and compensated. First of all, the State Human Rights Commission has no jurisdiction to resolve the service disputes, as it has been repeatedly held by the Hon'ble Supreme Court. This



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Court, in an identical case in W.P.No.5598 of 2001, quashed the order of the State Human Rights Commission, following the judgment of the earlier Division Bench of this Court, dated 26.08.2015, in ***W.P.No.8080 of 2001 [Indian Overseas Bank represented by Assistant General Manager, Central Office, Anna Salai, Chennai v. The Member and Presiding Officer, State Human Rights Commission, Chennai and others]***, wherein, the Division Bench has held as follows :

“9.In our view, it is not necessary to get into the merits of controversy in view of the scope and jurisdiction to be exercised by the State Human Rights Commission. The subject matter in question relates to the validity of the order of dismissal based on the Collector's decision qua the caste certificate, when the challenge to the decision of the Collector stood repelled by this Court. It is a pure service dispute. The functions of the Commission more specifically as specified in Section 12 forming part of Chapter-III dealing with functions and powers of Commission of the Protection of Human Rights Act, 1993, does not mention such service disputes. In fact, the State Human Rights Commission, Tamil Nadu [Procedure] Regulations, 1997, specifically provide in Regulation No.9 complaints not ordinarily entertainable and in sub-clause [3], it maintains disputes relating to service matters or labour or



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industrial disputes. Thus, the State Commission had no jurisdiction whatsoever to proceed with the subject matter in question, a position which is not being disputed by the learned counsel for the 1st and the 2nd respondent Association.”

6.In view of the legal position, this Court, even otherwise in a case where the employee's community status is not yet decided, may not approve the decision of the State Human Rights Commission, to reinstate the employee who was terminated from service following the decision cancelling the community status of the employee which is the basis for him to get employment.

7.In this case, having regard to the fact that the 2nd respondent has allowed the findings of the District Level Scrutiny Committee to become final, there is nothing to consider on merits. Therefore, the petitioner is entitled to succeed and the impugned order passed by the 1st respondent, dated 13.12.2000, is quashed, not only on the ground of lack of jurisdiction, but also on merits.



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WEB COPY 8. Accordingly, this writ petition is allowed. No costs.

(S.S.S.R., J.) (N.S., J.)
05.01.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

The State Human Rights Commission,
Justice Pratap Singh Maligai,
35 Thiru-Vi-Ka Salai,
II Floor,
Royapettah,
Chennai – 600 014.



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