



W.P.No.18492 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 24.11.2023

Order delivered on 08.03.2024

CORAM

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

W.P.No.18492 of 2019
and
W.M.P.Nos.17812, 17814 & 17816 of 2019

K.Rajendran

.... Petitioner

VS

1. Indian Bank,
Rep. by its Chairman,
Managing Director (Corporate Office),
Avvai Shanmugam Salai,
Royapettah,
Chennai - 600 014.
2. The General Manager,
Indian Bank, HRM,
Personnel department (Corporate Office),
Avvai Shanmugam Salai,
Royapettah,
Chennai - 600 014.
3. The Deputy General Manager,
Jenny Plaza,
Bharathidasan Road,
Tiruchirapalli.



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4. Branch Manager,
Indian Bank,
Andimadam Branch,
Udayarpalayam Taluk,
Perambalur District.
5. The Assistant General Manager (HRM),
Indian Bank (Corporate Office),
Avvai Shanmugam Salai,
Royapettah,
Chennai - 600 014.
6. State Level Scrutiny Committee,
rep. by its Chairman,
Adi-dravidar and Tribal Welfare Department,
Secretariat,
Chennai.

R6 is suo motu ipleaded as per
the order made in W.P.No.18492/2019
by RPSJ & CSNJ on 27.08.2019)

...Respondents

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 5th respondent contained in its letter bearing reference GR:O:22757 2019-20 dated 30.05.2019 and all proceedings in furtherance thereof and to quash the same as arbitrary, unjust and illegal and to consequently direct the 5th respondent to release the payments relating to the petitioner's retirement benefits and backwages for the period 13.09.2000 to 03.09.2009 forthwith.



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WEB COPY For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mr.Ritachandrasekaran
for Aiyar & Dolia for R1 to R5
Mr.Stalin Abimanyu,
Additional Government Pleader for R6

ORDER

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

This writ petition has been filed challenging the order of the 5th respondent dated 30.05.2019, by which, the petitioner was placed under cessation of service from the bank on the date of his superannuation and consequently, direct the 5th respondent to release the payments relating to the petitioner's retirement benefits and backwages for the period 13.09.2000 to 03.09.2009 forthwith.

2. The brief facts of the case of the petitioner is that the petitioner joined the service of the 1st respondent Bank in August, 1984 and was promoted to the cadre of Assistant Manager in August, 1992. The petitioner joined the bank on the basis of a community certificate which was issued by the Tahsildar stating that the petitioner belonged to the community of Kattunaicken which comes under the category of Scheduled Tribe. Whiles, proceedings were initiated against the petitioner on the ground that he did not



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belong to Kattunaicken community and that the certificate, which was issued was not a genuine one. Thereafter, on the basis of letter dated 12.06.1997, issued by Revenue Divisional Officer, the District Vigilance Commissioner passed an order dated 28.08.2000 to the effect that the petitioner did not belong to the said community and cancelled the certificate issued on 24.11.1984. Aggrieved by the same, the petitioner filed W.P.No.17136 of 2000 and this Court, by order dated 23.08.2005 had set aside the said order. Against the same, the respondent Bank preferred an appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the batch of appeals. Subsequently, the 1st respondent issued a letter to the petitioner reinstating him in service of the Bank. However, the backwages for the period between 13.09.2000 to 03.09.2009 have not been paid till date. The petitioner worked in various capacities for the bank and retired on 31.05.2019 and on his retirement, he requested the bank to release payments in relation to his retirement benefits. The 5th respondent issued the impugned letter dated 30.05.2019 stating that the petitioner is not entitled to the payment till the proceedings regarding the community certificate are completed and final orders are passed thereon. Hence, the present writ petition.



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3. Learned counsel for the petitioner would submit that the District Level Committee conducted no proceedings towards the determination of the validity of the petitioner's community certificate within a period of 6 months from the date of the order passed by the Hon'ble Supreme Court which clearly establishes that the respondents accepted the petitioner's community certificate as true and valid. The failure to release the payments relating to the petitioner's retirement benefits is arbitrary, unreasonable and in violation of the petitioner's right to equality under Article 14 of the constitution of India. Learned counsel would further submit that the respondent Bank failed to pay backwages for the period of termination i.e., from 13.09.2000 to 03.09.2009 and acted arbitrarily and illegally. The impugned order is exfacie illegal and deprives the petitioner's right to livelihood. He would further submit that the 5th respondent has passed the impugned order without any jurisdiction and failed to follow the principles of natural justice and has acted arbitrarily and unreasonably. Hence, he would pray to allow the writ petition as prayed for.

4. Per contra, learned counsel appearing for the 1st respondent bank would submit that the petitioner was placed under cessation of service in view of the pendency of verification of his caste certificate and that his retirement



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benefits are withheld till the conclusion of the verification proceedings. By order dated 28.08.2000, the two member District Level Vigilance committee, Salem had cancelled his ST (Kattunaicken) Certificate holding that he does not belong to the said community, after due verification. Therefore, the petitioner filed W.P.No.17136 of 2000 before this Court and this Court, vide order dated 23.08.2005, had set aside the order dated 28.08.2000 and directed to reinstate the petitioner into service and in respect of backwages, in the order dated 23.08.2005, it has been held that "If the writ petitioner is out of service then he would be reinstated within a period of four weeks from the date of receipt of a copy of this order in the last post held by him on the date of his termination. Writ Petitioner would not be entitled to backwages from the date of termination till the date of reinstatement which would depend upon the outcome of the decision to be taken by the Committee constituted as per the judgment of the Supreme Court referred to above (Madhuri Patil's case)." Thereafter, the verification of genuineness of community certificate by the State Level Scrutiny Committee afresh is pending and the petitioner attained the age of superannuation on 31.05.2019. Therefore, the petitioner was kept under cessation of service and the retirement benefits were rightly withheld by the Bank till a conclusion of such verification proceedings. In the event, the



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State Level Scrutiny Committee concludes that the petitioner does not belong to ST community, the bank will not be able to recover the retirement benefits if the retirement benefits are paid to the petitioner. Hence, he would pray to dismiss the writ petition.

5. Learned Additional Government Pleader appearing for the 6th respondent would state that this Court had *suo motu* impleaded the State Level Scrutiny Committee as the 6th respondent in this writ petition. The District Level Vigilance Committee Salem has confirmed that the petitioner does not belong to Kattunayakan Scheduled Tribe Community and cancelled the Community Certificate issued to the petitioner herein in which his community has been specified as Scheduled Tribe "Kattunayakan" issued by the Special Tahsildar, Salem dated 2.01.1984, vide proceedings dated 28.08.2000. The District Level Vigilance Committee Salem has granted 15 days time limit to file appeal before the State Level scrutiny Committee in the said proceedings. However, the petitioner has not filed any appeal petition against the order of the District Level Vigilance Committee, Salem, before the State Level Scrutiny Committee within the stipulated time in the said proceedings or at least within another 60 days. The 1st respondent, General Manager of the Indian bank has



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also not raised any complaint about the petitioner to the State Level Scrutiny Committee. The enquiry by the State Level Scrutiny Committee could be made only on receipt of the appeal petition from the petitioner against the proceedings of the District Level Vigilance Committee, Salem. The employer has not made any representation before the State Level Scrutiny Committee about the verification of the petitioner's genuinity of the community claim. There is no specific direction from this Court to the State Level scrutiny Committee to verify the petitioner's community claim. Therefore, he would pray to pass appropriate orders.

6. Heard the learned counsel appearing on either side and perused the materials available on records.

7. The petitioner was appointed in the respondent Bank in August, 1984 on the basis of ST community certificate issued by the Tahsildar. He was promoted as Assistant Manager in August 1992. While he was working so, he was issued with proceedings stating that the community certificate issued by the Tahsildar was not genuine. The District Vigilance Commission passed an order cancelling the community certificate of the petitioner, vide



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order dated 28.08.2000. The petitioner challenged the same, by filing a writ petition in W.P.No.17136 of 2000 and this Court, by order dated 23.08.2005 had set aside the said order. Against the same, the respondent Bank preferred an appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the batch of appeals preferred by the respondent Bank.

8. It is an admitted fact that the 1st respondent Bank reinstated the petitioner in service, vide letter dated 25.08.2009 in pursuant to the order passed by this Court and thereafter, he worked in various places and in various cadre and retired as Senior Manager, Scale III on 31.05.2019. At the time of retirement, the petitioner requested the employer/Bank to release his retirement benefits. However, the respondent bank had passed the impugned letter dated 30.05.2019 stating that the petitioner is not entitled to retirement benefits till the proceedings regarding his community certificate are completed and final orders are passed thereon.

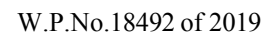
9. The impugned order passed by the respondent Bank rejecting the retirement benefits and backwages to the petitioner on the reason that no final report of the appropriate authority relating to verification of the petitioner's



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community certificate has been received and the verification process is still pending, cannot be countenanced. The respondent Bank had reinstated the petitioner into service in pursuant to the order passed by the Court and waited till his retirement and ordered cessation of his service on his superannuation after nearly 12 years after the order was passed by the Hon'ble Supreme Court. It is true that the petitioner did not make any appeal before the SLSC. If the petitioner did not make any appeal, nothing prevented the Bank as an employer to give representation to the SLSC to verify the genuineness of the petitioner's communal status, as it was stated by the learned counsel appearing for the SLSC that there was no direction given by the Court to SLSC to verify the same. It is to be noted that as on date, the order dated 28.08.2000, passed by the District Vigilance Commission, cancelling the petitioner's community certificate was quashed by this Court, vide order dated 23.08.2005 in W.P.No.17136/2005 and only thereafter, he was reinstated in service and no finality has been reached in respect of the community status of the petitioner.

10. The petitioner was appointed in service in the year 1984 and retired in 2019. Even after nearly 5 years of retirement, the petitioner did not get any monetary benefits for the service rendered by him. As of now, no purpose



The petitioner is now 65 years old and at this stage, verification of his community status is uncalled for.

11. The Government of India have issued guidelines periodically mandating all employers and authorities to undertake verification of the community status of the employees at the earliest point of time preferably at the time of one's entry into service. In the present case, the petitioner has completed 35 years of service and retired on 31.05.2019.

12. 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 the present case, the petitioner's community certificate was cancelled on 28.08.2000 by the RDO , pursuant to which, he was terminated from service vide order dated 13.09.2000 and subsequently, in pursuant to the order passed by this Court on 23.08.2005, the order cancelling the community certificate was quashed by this Court and he was reinstated into service and subsequently, retired on 31.05.2019. Even after 5 years of his retirement, the retirement benefits has



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been been granted to him. 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.

13. 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 passed by the 5th respondent. However, the petitioner should not claim reservation benefit based on his community certificate in future or use the certificate as proof for his family members. Accordingly, the impugned letter dated 30.05.2019 passed by the 5th respondent, is hereby set aside and the 5th respondent is directed to release the payments relating to the petitioner's retirement benefits and backwages for the period 13.09.2000 to 03.09.2009 with interest at the rate of 6% per annum



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within a period of eight weeks from the date of receipt of a copy of this order.

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The Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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

08.03.2024

vsi

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

The Chairman,
State Level Scrutiny Committee,
Adi-dravidar and Tribal Welfare Department,
Secretariat,
Chennai.



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J. NISHA BANU, J.
and
N.MALA, J.

vsi

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