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W.P. No.4517 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4517 of 2017

and

W.M.P.Nos.4742 & 4743 of 2017

S.Keerthana

... Petitioner

Vs.

The General manager
CHNZ
Bank of Baroda
Zonal Office,
No.41, 3rd floor, Luz Church Road,
Mylapore, Chennai-4.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in its CHNZ/HRM/COORD/06/135 dated 07.02.2017 and quash the same and consequently direct the respondent to confirm the petitioner's services with all consequential and attendant benefits.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mr.G.Anandakrishnan

ORDER

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The petitioner herein participated in the recruitment process in response to a common recruitment process for recruitment of Probationary Officer/Management Trainees undertaken by the institute of Banking Personnel selection in the year 2014 under Scheduled Tribe category and emerged as successful candidate and she was selected for the post of Probationary Officer. Accordingly, she was given appointment order dated 06.07.2015 appointing her as Probationary Officer in the respondent Bank and the petitioner has been continuing as such as on date.

2. However, the service of the petitioner was not confirmed for want of production of caste certificate in the prescribed format as required under the recruitment notification. At the time of issuing appointment order to the petitioner, the respondent Bank insisted the petitioner to produce the community certificate in the prescribed format and the petitioner was required to undertake to produce the same within 15 days. The petitioner was aged 21 years at the time of participation in the said recruitment process. Accordingly as required by the respondent Bank, the petitioner has furnished an undertaking to produce the community certificate in prescribed format within 15 days. However, the petitioner failed to produce community certificate in



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the prescribed format.

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3. In view of the same the respondent Bank has issued impugned proceeding requiring the petitioner to produce the caste certificate as per the prescribed format on or before 28.02.2017 and informed that in any case, if the petitioner fails to produce the prescribed community certificate, the Bank will proceed further in the matter as it deems fit. Aggrieved by the said notice date 07.02.2017, the petitioner approached this Court by filing present writ petition. This Court, while entertaining the present writ petition, granted an interim stay of all further proceedings pursuant to the impugned notice dated 07.02.2017.

4. The respondent filed counter affidavit contending that recruitment notification itself makes it mandatory to produce the community certificate in the prescribed format and as such the petitioner shall produce the community certificate in the prescribed format, in case if the petitioner intends to claim the reservation under any category and the petitioner having accepted the said condition and participated in the recruitment process, and having undertaken to produce the caste certificate in the prescribed format,



failed to produce the same. It is also contended that the proforma prescribed is by the Central Government which is applicable to all the Banks and almost all the candidates have produced the caste certificate in the prescribed format, except the petitioner.

5. The learned counsel appearing for the petitioner contended that the petitioner has produced her community certificate certifying that the petitioner is a person belonging to Scheduled Tribe community issued by competent authority i.e., the Revenue Divisional Officer and there is no dispute about the caste status of the petitioner, but the respondent is insisting for producing the community certificate in the prescribed format but the revenue authorities in the state of Tamil Nadu are not ready to issue in the said prescribed format.

6. He also further drawn the attention of this Court to the Circular No.25/4 dated 03.08.2004 issued by the Special Commissioner and Commissioner of Revenue Administration to the State of Tamil Nadu, wherein the specific instruction was issued to all the Collectors to instruct the



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certificate issuing authorities to strictly adhere to the orders of the Government and issue the community certificate in the permanent card only as prescribed by the Government. It is also further contented in that Class (i) of paragraph 6 of the said circular, in case if any officer fails to follow the Government orders and instructions issued in the Commissionerate, stringent disciplinary action will taken and deterrent punishment would be given.

7. According to the learned counsel for the petitioner because of the above circular the authorities in the State of Tamil Nadu are not ready to issue the community certificate in any other format other than the format of permanent card prescribed by the State of Tamil Nadu. He also further submitted that the certificate that is produced by the petitioner which is placed before this Court is the permanent card that was issued by the Revenue Divisional officer, Salem, in terms of the above said circular and there is no dispute about the community status of the petitioner and therefore the respondent is not justified in insisting the production of the community certificate in the prescribed format. He also relied upon the decisions of the Hon'ble Apex Court as well as this Court reported in (1997) 7 SCC 505 and W.P.No.14668 of 1992 dated 04.04.1997 and W.P.No.20402 of 2003 dated



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26.03.2004.

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8. On the other hand, the learned counsel appearing for the respondent bank contended that, the petitioner having undertaken to produce the community certificate in the prescribed format and having accepted the said condition as notified in the recruitment notification, failed to produce the community certificate in the prescribed format and in turn refused to produce the community certificate in the prescribed format. It is also further contended that the same format is being followed in the entire country and the said format is also prescribed by the Central Government. Therefore, the petitioner is also required to produce the community certificate in the said format.

9. This Court has carefully considered the submissions made on either side and perused the material on record.

10. From the perusal of the counter affidavit it is not seen that there is any dispute about the community certificate produced by the petitioner nor



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about the competency of the authority who issued the said community certificate. The only ground is that the recruitment notification itself required production of community certificate in the prescribed format but the petitioner failed to produce the community certificate in the said format and therefore, the petitioner is not entitled for confirmation of the services and for further service prospects. It is also stated that several candidates, who participated in the recruitment process from the State of Tamil Nadu, have produced the community certificate in the prescribed format as required by the respondent Bank and it is only the petitioner who failed to produce the same, and that the same format is prescribed for several years throughout the country and all the candidates are following the same process and even in the recruitment in question also, recruitment was conducted in respect of several candidates and it is also only the petitioner who had not complied with the said formality and hence, the respondent was justified in issuing the impugned notice dated 07.02.2017.

11. In the absence of any dispute about the community status of the petitioner, this Court does not see any justification for the respondent Bank to insist upon the proforma prescribed by the Central Government and requiring



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the petitioner to produce the community certificate in the said prescribed proforma. There is no dispute that in the State of Tamil Nadu, Special Commissioner and Commissioner of Revenue Administration has issued a Circular No.25/2004 dated 03.08.2004 requiring all the certificate issuing authorities to issue community certificate in the permanent card as prescribed by the Government. There is no dispute about the issuance of the said Circular by the Revenue Department in the State of Tamil Nadu. The petitioner has produced the community certificate issued in the shape of permanent card as prescribed by the Government of Tamil Nadu and the certificate issuing authority is restrained from issuing certificate in any other form. Under such circumstances, the action of the respondent Bank in insisting for production of community certificate in the form prescribed by the respondent bank is totally arbitrary and illegal. The petitioner cannot be compelled to obtain the certification contrary to the relevant law which in the instant case, is in the shape of circular dated 03.08.2004.

12. In the considered view of this Court, such an action on the part of the respondent is totally arbitrary and contrary to the law. When the petitioner is claiming reservation under Scheduled Tribe category and



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produced a certification certifying that the petitioner belong to such category, it is not open for the respondent Bank to insist for production of a certificate in the prescribed format. In case, the respondent Bank has got any doubt about the community status of the petitioner, it is always open for the respondent Bank to seek verification of the community certificate by referring it to the competent authority and no one will have any objection for such a course of action. But in the instant case, it is not the situation. It is only about the proforma of the community certificate. If such an action of the respondent Bank is allowed to continue, the very purpose of providing reservation in favour of Schedule Tribe would get defeated. If the petitioner, who is a resident of the State of Tamil Nadu cannot obtain a certificate in the form prescribed by the Central Government, she will be deprived of reservation provided in favour Schedule Tribe category for want of securing certificate in the format prescribed by the Central Government/Bank.

13. The Hon'ble Apex Court in the case of ***R.Kandasamy Vs. Chief Engineer, Madras Port Trust*** reported in ***(1997) 7 SCC 505*** has considered almost similar case wherein, inspite of producing the certificate issued by competent authority certifying the community status of the petitioner therein,



the respondent bank insisted for production of fresh community certificate and the same was found fault with by the Hon'ble Apex Court and it was held that once the candidate produced the caste certificate issued by the competent authority, there is no justification for the respondent to insist upon production of fresh certification. The facts of the present case are almost identical to that of the case decided by the Honble Apex Court. In the said decision, the Hon'ble Apex Court held as under:

6.In our opinion the Community Certificate issued to a Scheduled Tribe candidate by the Tehsildar prior to 11-11-1989 is a good and valid Community Certificate for all purposes so long as such a certificate is not cancelled. The authorities cannot decline to take that into consideration and insist upon a fresh Community Certificate from the Revenue Divisional Officer.”

14. Even this Court, under similar circumstance in W.P.No.14668 of 1992 and W.P.No.20402 of 2003, considered almost identical aspect and where there is dispute about the community status of the petitioners therein, and enquiry is pending as to the genuineness of the certification produced by the petitioner therein, this Court directed the respondent therein to extend all the benefits of confirmation of services, further promotion, etc., pending

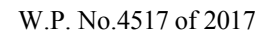


finalisation of the genuineness of the community certificate of the petitioners therein.

15. In the instant case there is no dispute as of now with regard to the competency of the person who issued community certificate produced by the petitioner and also about the community status of the petitioner. In the absence of the same, the action of the respondent Bank in not confirming the services of the petitioner because of non compliance of the formality of producing the community certificate in the prescribed format is bound to be declared as illegal and arbitrary.

16. In the circumstances, the impugned notice dated 07.02.2017 is bound to be declared as illegal and arbitrary. Accordingly, impugned notice is set aside and respondent is further directed to confirm the services of the petitioner without insisting for production of the community certificate in the prescribed format, if the petitioner is otherwise eligible for such confirmation and extend all other benefits consequent upon the confirmation of the services of the petitioner.

17. The above exercise shall be completed by the respondent as



18. However, it is made clear that in case, if the respondent Bank has got any doubt about the community status of the petitioner, it is always open to the respondent Bank to refer the community certificate produced by the petitioner to the competent authority to ascertain the genuineness of the said certificate in accordance with law.

19. Accordingly, this writ petition is allowed. The miscellaneous applications, if any, shall stand closed. No costs.

03.04.2024

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Speaking Order : Yes/No
dpa

To:

The General manager
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