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W.A.Nos.500, 501 & 503 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos.500, 501 & 503 of 2021

and

C.M.P.Nos.1979, 1982 & 1983 of 2021

W.A.No.500 of 2019:

1.The Regional Manager,
Competent/Disciplinary Authority,
United India Insurance Company Limited,
Regional Office 178, Dr.Nanjappa Road,
Coimbatore.

2.Deputy General Manager,
United India Insurance Company Limited,
Head Office, Chennai.

... Appellants

Vs.

1.S.K.Srinivasan

2.The Tamil Nadu State Level Scrutiny Committee,
Represented by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

... Respondents



W.A.Nos.500, 501 & 503 of 2021

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the writ appeal by setting aside the order of Hon'ble Judge dated 27.04.2019 passed in W.P.No.11300 of 2011 and dismiss the writ petition.

For Appellants	: Mr.T.S.Baskaran
For R1	: Mr.L.Chandra Kumar For Mr.M.Naganathan
For R2	: Mr.D.Gopal Government Advocate

W.A.No.501 of 2019:

1.The Regional Manager,
Competent/Disciplinary Authority,
United India Insurance Company Limited,
Regional Office 178, Dr.Nanjappa Road,
Coimbatore.

2.Deputy General Manager,
United India Insurance Company Limited,
Head Office, Chennai.

... Appellants

Vs.

1.K.Ratharani (Died)

2.The Tamil Nadu State Level Scrutiny Committee,
Represented by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

3.P.Mohanakrishnan



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4.P.M.Preethi

... Respondents

[R3 & R4 substituted as LR's of deceased R1 vide order dated 11.03.2024 made in CMP.No.4970 of 2024 in W.A.No.501 of 2024]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the writ appeal by setting aside the order of Hon'ble Judge dated 27.04.2019 passed in W.P.No.11301 of 2011 and dismiss the writ petition.

For Appellants	: Mr.T.S.Baskaran
For R1	: Died Steps Taken
For R2	: Mr.D.Gopal Government Advocate
For R3 & R4	: Mr.L.Chandra Kumar For Mr.M.Naganathan

W.A.No.503 of 2019:

1.The Regional Manager,
Competent/Disciplinary Authority,
United India Insurance Company Limited,
Regional Office 178, Dr.Nanjappa Road,
Coimbatore.

2.Deputy General Manager,
United India Insurance Company Limited,
Head Office, Chennai.

... Appellants

Vs.

1.E.Chandramathi



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2.The Tamil Nadu State Level Scrutiny Committee,
Represented by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the writ appeal by setting aside the order of Hon'ble Judge dated 27.04.2019 passed in W.P.No.11302 of 2011 and dismiss the writ petition.

For Appellants	: Mr.T.S.Baskaran
For R1	: Mr.L.Chandra Kumar For Mr.M.Naganathan
For R2	: Mr.D.Gopal Government Advocate

COMMON JUDGMENT

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The facts in nutshell as narrated by the parties would reveal that the 1st respondent in all the writ appeals secured employment in the United India Insurance Company Limited [hereinafter referred as “Insurance Company”] / appellant by producing Schedule Tribe Community certificate, wherein, the name of the community of the respondents are stated as “Konda Reddy”.



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2. The 1st respondent in all the writ appeals were appointed as Assistants in the appellant / Insurance Company. The employer sent the community certificate for verification of its genuinity and the District Collector, Salem vide proceedings in R.O.C.167924/90 (D10) dated 30.04.1991 sent a reply to the appellant / Insurance Company stating that during enquiry conducted by the Revenue Divisional Officer, Mettur, they found that the respondents working in appellant / Insurance Company have forged the signature of the Revenue Divisional Officer, Mettur. The District Collector further stated in the said letter that no such community certificate have been issued by the Office of the Revenue Divisional Officer, Mettur and the certificates produced by the respondents are found to be bogus. A request was made to the Revenue Divisional Officer to initiate all further actions.

3. Based on the letter of the District Collector, Salem dated 30.04.1991 departmental disciplinary proceedings were initiated against the respondents for securing public employment by producing bogus community certificate. The 1st respondent in all the writ appeals approached this Court challenging the initiation of disciplinary proceedings by filing writ petitions, which were



initially rejected. Thereafter, the respondents preferred writ appeals in W.A.Nos.1002 to 1004 of 2001. The Division Bench passed final orders on 06.12.2006 and the relevant portion of the judgment are extracted hereunder;

“4. Though the arguments advanced on behalf of the appellants/writ petitioners seem to be attractive, but we do not subscribe to such submissions. It appears that the said letter dated 7.7.1983 or the judgment rendered in Vol.98 (1985) L.W. 105 (cited supra) is not applicable to the case of the appellants/writ petitioners. The aforesaid circular dated 7.7.1983 relates to community certificate issued by the competent authority, wherein, later on if it comes to the notice of the authorities that the said certificate was not obtained correctly, but by misrepresentation, it was directed that before cancellation of such certificate already issued, the concerned person should be given an opportunity of hearing to justify the genuineness of the community claimed by him.

5. In the present case, it is not the allegation that the appellants/writ petitioners obtained the their community certificates on their



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misrepresentation. On the other hand, the allegation is that no such certificates were issued and they are forged. In such circumstances, the question of cancellation of the certificates purported to have been issued, does not arise and thereby, question of giving opportunity to the concerned person by the Collector is also not applicable.

6. The only question to be determined in these appeals is Whether the community certificate produced by one or other appellants/writ petitioners was forged or not. Prima facie, this issue can be determined only by a Court of competent jurisdiction. In general, no such declaration can be given by any Government official or by any authority of the public undertakings. But it is always open to the competent authority to find out whether such instrument/community certificate was ever issued by the authority or the office concerned. If it is found that such certificate was neither signed nor was issued from the office of the authority concerned, the disciplinary authority can doubt the genuineness of such certificate and may ask



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the employee to prove the validity of the same in a departmental enquiry and on failure, may come to a conclusion whether by producing such certificate, not issued by the authority/officer, the employee mislead the Department amounting to misconduct.

7.

(i).....

(ii).....

(iii) *If any report has already been submitted by the District Collector suggesting that one or other community certificate was not issued from the office of the State and such report is taken into consideration, the enquiry officer will ask the District Collector to produce the relevant Register/document of the year in which one or other community certificate was shown to have been issued, to find out whether any such certificate was issued from the office of the officer under whose signature such certificate stated to have been issued.*

(iv) *If memorandum/document number and date of issue of the certificate are shown in the certificate, it will be open for the enquiry officer to*



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call for the records relating to the issuing Register pursuant to which such memorandum/document number and certificate was issued on the date concerned and in such a case, the District Collector/concerned officer will co-operate and produce the relevant Register of the document of the year, failing which, the enquiry officer may draw adverse inference and discard the report, if any submitted by the District Collector.”

4. Consequent to the judgment of the Division Bench, the appellant / Insurance Company proceeded with the disciplinary proceedings and by following the procedures as contemplated, they have concluded disciplinary proceedings and finally imposed the penalty of removal from service. The order of removal from service came to be challenged in another writ petition and the learned Single Judge of this Court allowed the said writ petition resulted in filing of the present Intra-Court Appeals by the Insurance Company.

5. Mr.T.S.Baskaran, learned counsel for the appellant / Insurance Company would submit that the Division Bench has laid down the principles



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regarding the bogus certificate produced and the genuinity of the community as claimed by the employees. In the case of the respondents, it is not about the genuinity of the community, but about the production of bogus community certificate for securing public employment. These aspects were clarified by the Division Bench and accordingly the appellant / Insurance Company was permitted to proceed with the departmental disciplinary proceedings. When the matter stands as it is, the learned Single Judge in the impugned order once again gone into the issue relating to the genuinity of Konda Reddy community, which is unconnected with the disciplinary proceedings initiated by the appellant for misconduct of production of bogus community certificate. Therefore, the findings made by the learned Single Judge in the impugned order is absolutely unconnected with the departmental disciplinary proceedings initiated on the charges that the respondents produced forged community certificate and secured public employment.

6. Mr.L.Chandra Kumar, learned counsel assisted by Mr.N.Meganathan, learned counsel appearing on behalf of the 1st respondent in all the writ appeals would oppose by stating that regarding the Schedule Tribe community, the State Level Scrutiny Committee is the Authority. The



learned Single Judge relegated the parties to approach the State Level Scrutiny Committee to ascertain the genuinity of the community through which the respondents belongs to i.e., “Konda Reddy”. Therefore, there is no infirmity in respect of the order passed by the Writ Court and the writ appeals are to be rejected.

7. It is contended that relying on the case of ***Kumari Madhuri Patil and Another vs. Additional Commissioner, Tribal Development and Others¹***, issued direction to the parties to adjudicate the issues before the State Level Scrutiny Committee. Instead of participating in the process of enquiry to be conducted by the State Level Scrutiny Committee, the appellant / Insurance Company chosen to file the present writ appeal and therefore, the writ appeals are untenable.

8. The learned Single Judge has taken into consideration the deposition of the Revenue Divisional Officer before the enquiry proceedings. Crime Branch, Crime Investigation Department (CBCID) has submitted a report that “Konda Reddy” community people are residing in that locality. That also has been relied upon by the learned Single Judge. Relying on the said

¹ **1994 6 SCC 241**



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depositions and the findings of the CBCID authorities, Mr.L.Chandra Kumar, learned counsel would submit that there is no perversity in the findings made in the impugned order and the writ appeals are to be rejected.

9. Considered the rival submissions made between the parties to the *lis* on hand.

10. We are of the *prima facie* opinion that the issues before the Writ Court was diverted from the departmental disciplinary proceedings initiated against the 1st respondent in all the writ appeals. The issue before the department was, whether the community certificate produced by the respondents for securing appointment is a bogus document or a genuine document. It was not an issue, which was raised, whether the respondents belong to Konda Reddy community or not. If at all the issue relating to the genuinity of the Konda Reddy community is raised in the disciplinary proceedings, then alone the parties are to be relegated to resolve the issues by approaching the State Level Scrutiny Committee. The said question would not arise at all in the present case, since the appellant / employer sent the community certificate produced by the respondents for ascertaining its



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genuinity. The District Collector, Salem vide letter dated 30.04.1991 categorically said that the enquiry conducted by the Revenue Divisional Officer, Mettur reveals that the respondents working in the appellant / Insurance Company have forged the signature of the Revenue Divisional Officer, Mettur.

11. Further, it is asserted by the District Collector that no such community certificates have been issued by the Office of the Revenue Divisional Officer, Mettur. The Collector himself made a finding based on the enquiry conducted by the Revenue Divisional Officer, Mettur that the Schedule Tribe community certificate produced by the respondents are forged certificates and not signed and issued by the Revenue Divisional Officer, Mettur.

12. The Revenue Divisional Officer even during the enquiry deposed that in the year 1988 no such Schedule Tribe community certificates were issued by their Office. The report of the CBCID relied on by the respondents is all about the presence of Konda Reddy community people in that locality. Therefore, the question of referring the case to the State Level Scrutiny Committee would not arise at all in the present case.



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13. The said distinction between the production of bogus community certificate and verification of the genuinity of the community have been considered in the case of the respondents by the Division Bench of this Court in W.A.Nos.1002 to 1004 of 2021 dated 06.12.2006. The Division Bench made a categorical finding that the allegation against the respondents is that no such certificate was issued and they are bogus. The very charge against the respondents was all about misrepresentation and production of forged community certificate for securing employment in appellant / Insurance Company. In paragraph 6 of the Division Bench order cited supra, the Court held that “If it is found that such certificate was neither signed nor was issued from the Office of the authority concerned, the Disciplinary Authority can doubt the genuineness of such certificate and may ask the employee to prove the validity of the same in the departmental enquiry and on failure, may come to a conclusion whether by producing such certificate, not issued by the authority / officer, the employee mislead the department amounts in misconduct”. Therefore, a clear distinction have been drawn by the Division Bench in the case of the respondents that it is not a case of verification of community.



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14. Presuming that the respondents belong to Konda Reddy community, then also they are liable for disciplinary proceedings, since the authorities found that the ST Community Certificate produced by the respondents is a forged certificate as per the enquiry conducted by the District Collector through Revenue Divisional Officer, Mettur.

15. It is apparent that the Writ Court has mixed up the issues of genuinity of the community certificate produced by the respondents and the genuinity of the community to which the respondents belong to. This exactly resulted in arriving a decision and granting relief to the respondents / employees.

16. The employer is well within their powers to verify the genuinity of the certificates produced by the candidates seeking employment. During the course, if they found that the certificates produced are bogus or forged, then the employer is entitled / empowered to initiate departmental disciplinary actions and all further actions in the manner known to law.

17. In our opinion, the Writ Court has not considered the distinction



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clearly drawn by the Division Bench in the earlier writ appeals filed by the respondents. In the case of the respondents, the Division Bench has made a distinction and the Writ Court would not have gone into the question regarding the genuinity of the community i.e., Konda Reddy.

18. Thus, the order impugned is liable to be intervened by this Court. Consequently, the writ order dated 27.04.2019 in W.P.Nos.11300 to 11302 of 2011 is set aside and the Writ Appeals are allowed. No costs. Connected Miscellaneous Petitions are closed.

[S.M.S., J.] [C.K., J.]
19.07.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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To
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The Tamil Nadu State Level Scrutiny Committee,
Represented by its Chairman,
Adi Dravidar and Tribal Welfare Department,
Government of Tamil Nadu,
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