



W.P.(MD)No.14025 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**W.P.(MD)No.14025 of 2017
and
W.M.P.(MD)No.10972 of 2017**

R.Lakshmanaperumal

- 1.L.Sivakami
- 2.L.Arun Prasad
- 3.L.Usha Nandhini Devi

[P1 to P3 are substituted vide Court order dated 09.03.2021
in W.M.P.(MD)No.1559/2020 in W.P.(MD)No.14025 of 2017]

... Petitioner

-VS-

- 1.The General Manager,
Food Corporation of India,
Regional Office,
No.13, Sathya Moorthy Road,
Chetpet,
Chennai – 600 031.



W.P.(MD)No.14025 of 2017

WEB COPY

2.The State Level Scrutiny Committee,
Rep. by its Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George, Chennai.

... Respondents

[R2 is suo motu impleaded vide Court order dated 28.07.2017].

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to pay backwages for the period the petitioner was illegally terminated ie., from 09.02.2007 upto 31.10.2013 [date of his normal retirement] and to pay him Pension, Gratuity, EL Encashment, Provident Fund Contribution (both employer and employee) and all other benefits along with interest from 01.11.2013.

For Petitioner	:	Mr.V.Karthikeyan for Mr.V.Vijayshankar
For Respondent No.1	:	Mr.M.Kumar
For Respondent No.2	:	Mr.P.T.Thiraviyam Government Advocate



W.P.(MD)No.14025 of 2017

WEB COPY

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The first petitioner's husband who was appointed in service of the Food Corporation as an Assistant Grade III in the year 1997 in the Scheduled Tribe quota has come up with this writ petition seeking a Mandamus to the respondent to pay back-wages for the period the petitioner was illegally terminated ie., from 09.02.2007 to 31.10.2013 and to pay him pension, Gratuity, E.L. encashment, P.F. contribution and all other benefits along with interest from 01.11.2013.

2.The brief facts leading to the filing of the present Writ Petition are as follows:

2.1.The petitioner joined in the services of Food Corporation as already stated on 22.01.1977, under the Scheduled Tribe [ST] quota on the claim that he belongs to Konda Reddy community which has been classified as a Scheduled Tribe. In 1998, there was a complaint to the effect that the petitioner did not belong to ST community. So, the matter was referred to the District Collector, Tuticorin District (then known as “Chidambaranar District”) and by



W.P.(MD)No.14025 of 2017

proceedings dated 31.01.1990, the District Collector has declared that the first petitioner does not belong to ST community. Disciplinary proceedings were initiated against the petitioner. They were challenged by the petitioner in W.P.No. 2562 of 1991 and this Court granted interim stay of the disciplinary proceedings. Later the said writ petition was disposed of on 24.02.1995 with a direction to the District Collector, Tuticorin to make a verification afresh taking into account the deliberations of the villagers in the presence of the petitioner.

2.2. Thereafter, the District Collector passed an order on 13.06.2000, declaring that the first petitioner's husband does not belong to ST community. The Food Corporation of India terminated the services of the petitioner on 27.06.2000. The petitioner filed W.P.No.12118 of 2000, challenging the order (dated 13.06.2000) of cancellation of community certificate, since he was not given personal hearing before cancellation. The order of cancellation was quashed on 15.02.2002, by this Court with a direction to refer the community certificate to a Committee constituted in accordance with the Hon'ble Supreme Court's direction that was issued in ***Kum.Mathuri Patil's*** case. The order of termination was also put to challenge in W.P.No.13201 of 2000 and by an order dated 01.03.2000, the petitioner was directed to be reinstated in service and was



W.P.(MD)No.14025 of 2017

accordingly reinstated in service. As per the direction of the Court made in W.P.No.12118 of 2000, a two member District Vigilance Committee enquired into the genuineness of the certificate and declared that the certificate of the first petitioner's husband is not genuine and he does not belong to Hindu Konda Reddy community.

2.3. Again the first petitioner's husband filed W.P.No.64803 of 2002, challenging the cancellation and interim stay was granted. Interim stay was also made absolute on 12.09.2003. All the community certificate matters were grouped together and posted before the Division Bench and after various hearings, the Government passed G.O.(Ms).No.111 dated 06.07.2005, reconstituting the Two Member District Vigilance Committee into a Three Member Committee including an Anthropologist as a Member. Therefore, all the orders passed by the Two Member Committee were set aside and matters were remitted back to the Three Member Committee. The Three Member District Vigilance Committee again passed an order dated 26.12.2006, cancelling the community certificate issued to the first petitioner's husband. This cancellation was done on 26.12.2006. Pursuant to that, the Food Corporation of India terminated the services of the petitioner on 09.02.2007. The petitioner filed W.P.



W.P.(MD)No.14025 of 2017

(MD)Nos.21342 and 36548 of 2007, challenging the orders of termination as well as the order of the District Level Vigilance Committee. This Court set aside the order of the District Level Vigilance Committee and directed the matter to be disposed of by the State Level Scrutiny Committee. It has also been stated in the said order that once the petitioner is successful before the Committee, the order of termination would stand nullified.

2.4.Pursuant to the order passed by this Court in W.P.(MD)Nos. 21342 and 36548 of 2007, the State Level Scrutiny Committee took up the matter and rejected the petitioner's claim on 30.01.2014. This was subject matter of challenge in W.P.(MD)No.24326 of 2016 and this Court by order dated 06.02.2017, quashed the order of the State Level Scrutiny Committee and required the State Level Committee to refer the matter to the Vigilance Cell for verification. Thereafter, the matter was referred to the Vigilance Cell and when the matter was pending with the Vigilance Cell, the first petitioner died on 14.12.2019. The community certificate issued to the petitioner remains unverified as on today, earlier orders of cancellation having been set aside by this Court.

3.It is not in dispute that the petitioner has worked between



W.P.(MD)No.14025 of 2017

22.01.1977 and 09.02.2007, when he was terminated. This Court while passing orders in W.P.(MD)Nos.21342 and 36548 of 2007, made it very clear that if the petitioner succeeds before the State Level Scrutiny Committee, the order of termination will stand nullified. It is also admitted that the petitioner reached the age of superannuation on 31.10.2013. Therefore, the Corporation, namely the employer cannot deny benefits to the petitioner. May be, it is a one off case where all efforts made by the Corporation to verify the Community Certificate of the first petitioner's husband unfortunately failed but that cannot be a ground to deny the benefits for the services rendered by the first petitioner's husband for more than 30 years with the Corporation. Hence, the petitioners who are the legal heirs of the deceased petitioner would be entitled to all benefits accruing out of the employment. We make it clear that the legal heirs will not be entitled to salary between 09.02.2017 to 31.10.2013 on the principle of "No work No Pay". But the said services would be taken into account for deciding his other entitlements namely, Pension, Gratuity, Provident Fund, Earned Leave encashment etc.

4.Writ Petition is therefore allowed, directing the respondent Corporation to pay all the benefits except the salary for the period from 09.02.2007 to 31.10.2013. The amount shall be worked out and paid within a



W.P.(MD)No.14025 of 2017

period of twelve [12] weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

NCC : No
Index : No
MR

[R.S.M., J.] & [S.M., J.]
22.10.2024



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W.P.(MD)No.14025 of 2017

To

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- 2.The Secretary to Government,
State Level Scrutiny Committee,
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