

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.202/00715/2012

Jabalpur, this Friday, the 06th day of March, 2020



HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Debi Shankar Batham
 S/o Amarlalji, Aged 45 years,
 Occupation Class D Post O/o Post Office Sheopur,
 R/o Majhi Mohalla Khatik
 Gali Sheopur Pin No.476337 M.P.

-Applicant

(By Advocate-**Shri Nirmal Sharma**)

V e r s u s

1. The Union of India Through the Secretary
 Department of post India,
 Ministry of Communication and
 Information Technology,
 Dak Bhawan Patel Chowk Sansad Marg,
 New Delhi PIN 110001

2. The Chief Post Master General,
 M.P. Circle Bhopal PIN 462012

3. The Post Master General, Indore Region, Indore 452001

4. Superintendent of Post Offices, Chambal Division
 Moreno PIN 476001

- Respondents

(By Advocate-**Shri Akshay Jain**)

(Date of reserving the order: 15.05.2019)

ORDER**By Ramesh Singh Thakur, JM:-**

This Original Application has been filed by the applicant against the order passed by the appellate authority i.e. Superintendent of post office vide order dated 06/13.08.2012 (Annexure A/17) whereby the appeal of the applicant was rejected.



2. This Tribunal has decided this matter after hearing the matter on 20.03.2017. Against the order of this Tribunal, the respondent-department has approached the Hon'ble High Court of Madhya Pradesh in Writ Petition No.3722/2017. Hon'ble High Court vide order dated 30.10.2017 has set aside the order passed by this Tribunal and has held that since Tribunal did not deal with the matter in merit and remanded the matter to the Tribunal for deciding on merit. After affording opportunity of hearing to both the parties, this Original Application has been reserved.

3. The case of the applicant is that the applicant was initially appointed on the post of Extra Departmental Delivery Agent in the Post Office, Chambal Colony, Sheopur. At that time he got issued



the caste certificate from Tehsildar, Sheopur which was issued at Registration No.239 dated 30.06.1993 (Annexure A-1). The verification of this caste certificate was done from the office of Tehsildar Sheopur and no objection was raised by the authority of the applicant and Tehsildar office because at that time the registration file and register were available in the office Tehsildar. The Superintendent Post Office, Morena, vide letter dated 09.10.1998 informed the applicant to produce the caste certificate in the format form. The applicant thereafter applied to issue the caste certificate with the Tehsildar to issue certificate in the format form. The applicant was issued the new caste certificate from the office of Tehsildar Sheopur bearing No.239 with the remarks that it is prepared on the basis of old caste certificate. Copy of this new certificate annexed as Annexure A/2

4. Thereafter the applicant was selected and appointed on the Group D posts whereon he joined duty on 01.02.1999 and was posted in Morena Head Office. Thereafter the applicant was transferred from Morena to P.O Sheopur under Inspector Post Offices. The copy of appointment and posting order is mentioned



as Annexure A/3. The Post Master, Morena verified the original documents and a remark to this effect was noted on Annexure A/4. Thereafter Shri A. Akka, Inspector P.O. Sheopur vide letter dated 05.07.2005 addressed to Tehsildar Sheopur had sought information about the caste certificate of the applicant. The Tehsildar vide letter dated 07.07.2005 had informed to Shri A. Akka that he inspected the registration file wherein at serial No.239 some other case is registered. So the caste certificate of the applicant seems to be forged. Copy of letter dated 07.07.2005 is annexed as Annexure A/4. The Collector, District Sheopur might have asked about the caste certificate through various letters from Tehsildar Sheopur and with reference to these letters the Tehsildar through letter dated 07.01.2006 informed the collector. The copy of which endorsed to Shri A. Akka in the copy of letter dated 07.01.2006 as annexed As Annexure A/5.

5. Thereafter the Deputy Collector sent a letter dated 31.01.2006 to A.K. Yadav Superintendent of Post office Morena informing him that the Tehsildar investigated the matter and have asked information from Shri Jagannath Patwari who in his reply

has stated that no certificate was bearing No.239 was signed by him. The same is annexed as Annexure A/6. Further information was asked by Shri A.K. Yadav from the Tehsildar Sheopur vide letter dated 28.07.2006 about the caste certificate of the applicant. Vide letter dated 04.08.2006 the Tehsildar has informed that no such registration file is available in the office wherein the caste certificate had been issued and the same may be verified. The copy of 04.08.2006 (Annexure A/7).



6. The Superintendent of Post Office, Chambal Division Morena asked the information vide letter dated 05.07.2005 and 31.03.2006 from the Tehsildar Sheopur. Vide letter dated 15.05.2006 the Tehsildar had informed the Superintendent Post Office Morena that the Registration bearing No.239 on caste certificate is not available in court or in the record room nor the file issuing certificate is available. Therefore, verification on the basis of record is not possible. It was further informed that the GAD has issued the circulars and the Hon'ble High Court of Madhya Pradesh have issued orders that the bearers of Manjhi Caste certificate be not disturbed and the benefits they are getting

against which no proceedings be initiated. The copy of order dated 15.05.2006 is annexed as Annexure A/8.



7. Thereafter the applicant applied under RTI Act in Tehsildar office, Sheopur to provide information regarding his caste certificate. The Tehsildar informed vide letter dated 25.08.2009 that the information was received through record keeper and according to him on perusing registration of year 92-93 at head 121 it is found that case No.239 dated 1.2.1993, the name of Birbal Son of Dayal Nagda Survey No.933 area to 2000, 2049 has been entered as encroachment. The copy of letter of Tehsildar dated 25.08.2009 is annexed as Annexure A/9.

8. Thereafter the respondents on the basis of information given by Tehsildar Sheopur contained in A-4, A-5, A-6 and A-7 without considering the letter in Annexure A/8 issued charge memo dated 16/20.11.2006 under Rule 14 of the CCS (CCA) Rules, 1965 against the applicant. A copy of charge memo is annexed as Annexure A/10. The applicant submitted reply on 09.01.2007 to the charge memorandum and denied all the charges. Thereafter vide order dated 21.06.2007 the enquiry and presiding officers

were appointed to enquire into the charged memorandum. The charges leveled against the applicant which was on the basis of forged certificate and has obtained the appointment as Scheduled Tribe candidate which is in violation of Rule 3(1)(i)(iii) of Central Civil Services (Conduct) Rules, 1964 (for short '**the Rules 1964**').



The prosecution witness were examined Tehsildar Shri V.P. Parashar to sustain the charges against the applicant who deposed that letter dated 07.07.2005 which was issued from his office and also deposed that letter dated 07.01.2006 contained in Annexure A/4 and A/5 was also issued from his office but the name of the applicant is not mentioned. Ultimately inquiry officer submitted the inquiry report to the disciplinary authority on 31.05.2010. The disciplinary authority provided the report to the applicant to submit his representation on the inquiry report (Annexure A/12). The applicant submitted his representation which is annexed as Annexure A/13.

9. Thereafter the disciplinary authority has passed the punishment order dated 26.05.2011 (Annexure A/14). The applicant has filed the appeal on 16.07.2011. A copy of which is

annexed as Annexure A/15. The appellate authority has decided the appeal vide order dated 06/13.08.2012 and the same was rejected. A copy of which is annexed as Annexure A/17.

10. The applicant in this Original Application sought for the following reliefs:



“8(A) That, the whole proceedings of including charge memorandum to punishment order may kindly be declared as illegal because of lack of power, authority and jurisdiction and be quashed.

(AA) That, further the order of Appellate authority memo no. STA/3/03/2012-13 dated at Indore, the 06/08/2012 contained in Annexure A/17 be quashed.

(C) That, respondents be directed that if they have any doubt on the caste certificate, the matter may be sent to the statutory authority i.e. high level scrutiny committee framed by the Govt. of M.P. to decide the genuiness of the caste certificate of applicant.

(d) That respondents be directed to reinstate the applicant in service forth with along with back wages from the date of dismissal.

(e) Cost of Rs.5000/- be awarded.”

11. Learned counsel for the applicant submitted that if there was a doubt about genuineness of caste certificate then the matter should have been referred to the State Level Scrutiny Committee as per judgment of Hon’ble Supreme Court of India in the case

Ku. Madhuri Patil vs. Additional Commissioner reported in 1994 6 SCC 241 Para 13 whereby the Hon'ble Apex Court has laid down the procedure for the issuance of social status certificates and the scrutiny committee which may if found false, invalidate or cancel the caste certificate.



12. The respondent-department has filed reply to the Original Application. In the preliminary submission the respondents have submitted that the applicant was initially engaged as Extra Departmental Mail Career Chambal Colony Sheopur on 21.11.1994 and by virtue of his seniority a competent committee of the department was constituted for his promotion and his name was recommended for placing on promotion as Group D employee against the ST category quota. Therefore, his posting order was issued vide memo dated 29.01.1999 in the office of Postmaster Morena Head Post Office. Subsequently he was transferred from Morena to Sheopur Sub Post Office. On receipt of instructions from the Chief Postmaster General M.P. Circle Bhopal vide letter dated 11.08.2004, 24.06.2005 and 27.12.2007 (Annexure R/1), the verification of ST Category employees about



their caste certificate the Sub Divisional Inspector (Postal) Sheopur had initiated the verification of caste certificate produced by the applicant and consequently it was found that the caste certificate of the applicant, which was issued by the Tehsildar Sheopur (Annexure A/2) had not been issued by Tehsildar Sheopur as at Serial No.239 through which it was purported to have been issued, was not correct. So, the report of Tehsildar and Deputy Collector Sheopur already submitted by the applicant as Annexure A/4, A/5, A/6 A/7 and A/8. These verification reports were received in the office of respondents and others which were in direction of Deputy Collector of Sheopur vide his letter dated 17.05.2006 (Annexure R/2). So, there was a prima facie case of production of false certificate of ST community by the applicant was found and therefore a departmental enquiry under rule 14 of CCS(CCA) Rules, 1965 was constituted against him vide memo dated 16/20.11.2006 marked as Annexure A/10 and after receipt of enquiry report dated 12.10.2010 Annexure A/12, punishment of removal from service has been passed by the disciplinary authority i.e. Superintendent of Post Offices Chambal Division

Morena had been awarded vide his memo dated 26.05.2011 (Annexure A/14) against which the applicant submitted an appeal dated 16.07.2011 (Annexure A/15). His appeal had been decided and rejected by the appropriate appellate authority i.e. Director Postal Services Indore Region, Indore vide order dated 06/13.08.2012 (Annexure A/17).



13. Respondents submitted that the applicant was asked to produce his caste certificate vide letter dated 19.10.1998 in para 4.2 of the O.A. then how the applicant has submitted certificate dated 30.06.1993 i.e. before 09.10.1998 the date by which the applicant has been asked to submit his caste certificate thereby he concealed the facts. It has been cleared in the letter that the caste certificate in question cannot be verified on the basis of the record. Thus, the letter in question has no relevance with the allegation and therefore it was incorporated in Annexure-III of the charge sheet. The applicant has secured employment on the basis of false caste certificate of Monjhi (ST). It has been specifically submitted by the respondents that the Tehsildar clearly showed that he had no record to verify the caste certificate of the

applicant. Respondents further submitted that the signature on the certificate was not of applicant. Therefore the action of the respondents is proper legal. During investigation/enquiry it had established that the caste certificate is forged and thus issuance of charge sheet, conducting enquiry and passing order of punishment and decision of appellate authority are as per rules of CCS(CCA) Rules, 1965.



14. Further contention of the applicant is that in view of the law settled in the matter of ***Ku. Madhuri Patil*** (supra) the respondent-department should have forwarded the matter to Caste Certificate Scrutiny Committee. So, the order passed by the respondent-department is bad in law.

15. Heard the learned counsel for both the parties and perused the pleadings and documents attached with the O.A.

16. From the pleadings, it has come that the applicant was initially appointed on the post of Extra Departmental Delivery Agent and the caste certificate was issued by the Tehsildar, Sheopur bearing Registration No.239 dated 30.06.1993 (Annexure A-1). The Superintendent Post Office, Morena, vide letter dated



09.10.1998 informed the applicant to produce the caste certificate in the format form. The applicant was issued the new caste certificate from the office of Tehsildar Sheopur bearing No.239 with the remarks that it is prepared on the basis of old caste certificate (Annexure A/2). Ultimately, the applicant joined his duty on 01.02.1999. Thereafter Shri A. Akka, Inspector P.O. Sheopur vide letter dated 05.07.2005 addressed to Tehsildar Sheopur had sought information about the caste certificate of the applicant and information was provided to the department. The Tehsildar vide letter dated 07.07.2005 had informed to Shri A. Akka that he has inspected the registration file wherein at serial No.239 some other case is registered. The Collector, District Sheopur asked Tehsildar Sheopur. Deputy Collector sent a letter dated 31.01.2006 to Superintendent of Post Office Morena informing him that the Tehsildar investigated the matter and have asked information from Shri Jagannath Patwari and replied that no certificate was bearing No.239 was signed by him (Annexure A/6). The respondents on the basis of information given by Tehsildar Sheopur issued charge memo dated 16/20.11.2006

under Rule 14 of the CCS (CCA) Rules, 1965. The applicant submitted his reply on 09.01.2007. Inquiry was completed and the disciplinary authority provided the report to the applicant to submit his representation on the said inquiry (Annexure A/12) and the same was submitted his representation at Annexure A/13. Ultimately the disciplinary authority has passed the punishment order dated 26.05.2011 (Annexure A/14). The applicant has filed the appeal on 16.07.2011 (Annexure A/15) which was rejected by the appellate authority vide order dated 06/13.08.2012 (Annexure A/17).



17. The contention of the applicant is that if there was a doubt about genuineness of caste certificate then the matter should have been referred to the State Level Scrutiny Committee as per judgment of Hon'ble Supreme Court of India in the case ***Ku. Madhuri Patil vs. Additional Commissioner reported*** in 1994 6 SCC 241 Para 13 whereby the Hon'ble Apex Court has laid down the procedure for the issuance of social status certificates and the scrutiny committee which may if found false, invalidate or cancel the caste certificate.



18. On the other hand, the contention of the respondents is that the verification of ST Category employees about their caste certificate, the Sub Divisional Inspector (Postal) Sheopur had initiated the verification of caste certificate produced by the applicant and consequently it was found that the caste certificate of the applicant, which was issued by the Tehsildar Sheopur (Annexure A/2) had not been issued by Tehsildar Sheopur as at Serial No.239 through which it was purported to have been issued, was not correct. So, the report of Tehsildar and Deputy Collector Sheopur already submitted by the applicant as Annexure A/4 to A/8. So, there was a prima facie case of production of false certificate of ST community by the applicant and therefore a departmental enquiry under rule 14 of CCS(CCA) Rules, 1965 was constituted against him vide memo dated 16/20.11.2006.

19. The applicant has relied upon the order dated 16.12.2011, passed by this Tribunal in O.A. No.753/2010 (***Ravi Kumar Dongre vs. Union of India and others***), wherein it has been held that the competent authority should have referred the caste

certificate to the High Powered Caste Scrutiny Committee to verify the caste certificate of a person.

20. The applicant has further relied upon the order dated 24.11.2014 passed by this Bench in O.A. No.538/2011 (*Ravikant Ojha vs. Union of India and others*) wherein this Tribunal has relied upon the judgment passed by the Hon'ble Apex Court in the case of *Ku. Madhuri Patil* (supra), that the matter should have been referred to the Caste Scrutiny Committee/High Power Committee.



21. The counsel for the applicant has further relied upon the judgment passed by Hon'ble High Court of Madhya Pradesh in Writ Petition No.19838/2014 (*Ravikant Ojha vs. Union of India and others*), whereby the Hon'ble High Court has held that if there is dispute with regard to social status of applicant then the matter is to be referred to High Power Caste Scrutiny Committee in the light of law laid down by the Hon'ble Apex Court in the matter of *Ku. Madhuri Patil* (supra).

22. It is very clear from the judgment as relied upon by the applicant that if there is dispute regarding the issuance of caste

certificate the matter is to be referred to High Power Committee/Caste Scrutiny Committee. The Hon'ble Apex Court in the matter of **Ku. Madhuri Patil** (supra) has laid down the principles in Para 13 of the judgment which are as under:-



“13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.

2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with

particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.



4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma,

in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.



6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and

in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In



case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.



15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.”

23. In view of the law settled by Hon’ble Apex Court in the matter of ***Ku. Madhuri Patil*** (supra) it is incumbent upon the respondent department to refer the matter to the High Power Committee/Caste Scrutiny Committee as per principles laid down in Para 13 of the ***Ku. Madhuri Patil’s*** case (supra). So, the respondent-department has violated the law and the principles laid

down by the Hon'ble Apex Court. In the similar circumstances, this Bench vide order dated 24.11.2014 passed O.A. No.538/2011 has directed the respondent department to refer the matter to the concern Caste Scrutiny Committee/High Power Committee. The instant case is also covered by the judgment of Hon'ble Apex Court in the matter of ***Ku. Madhuri Patil*** (supra) as there was a doubt regarding the caste certificate which was issued by the competent authority at the time of joining the employment by way of documents produced by the applicant.



24. In view of the above, we are of the confirmed view that the action of the respondent-department is illegal and respondents have not followed the principles and law settled by the Hon'ble Apex Court in the matter of ***Ku. Madhuri Patil's*** case (supra).

25. Resultantly, this Original Application is allowed. The order dated 26.05.2011 (Annexure A/14) and appellate authority order dated 06/13.08.2012 (Annexure A/17) are quashed and set aside. The matter is remitted back to the disciplinary authority with a direction to make a reference to the concerned Caste Scrutiny Committee/High Power Committee annexing the caste certificate

produced by the applicant along with all other relevant documents pertaining to service within a period of four weeks from the date of receipt of a copy of this order. On receiving such reference, the concerned Caste Scrutiny Committee/High Power Committee shall proceed with the matter in accordance with the law/principles settled by the Hon'ble Apex Court in the matter of ***Ku. Madhuri Patil*** (supra). No costs.



(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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