

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.562 OF 2014

Dated this Tuesday, the 17th day of December, 2019

**CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)**

Shri Prakash Lokadu Sonwane, Son of Lokadu Lahanu Sonawane,
Ex-Loco Pilot, (Mail Express),
Residing at Railway Quarter No.D/59, Eight Block,
Bhusawal, Pin 425 201.

- Applicant

(By Advocate Shri S.V.Marne)

VERSUS

1. Union of India, Through the Chairman,
Railway Board, Rail Bhavan, New Delhi 110 001.
2. The General Manager, Central Railway, Head Quarters Office,
CST, Mumbai 400 001.
3. The Divisional Railway Manager (P), Central Railway,
Bhusaval Division, Bhusaval, Dist. Jalgaon 425 201.
4. The Sr. Divisional Electrical Engineer, Central Railway,
Bhusaval Division, Bhusaval,
Dist. Jalgaon 425 201.

- Respondents

(By Advocate Shri V.D.Vadhavkar)

Order reserved on 02.08.2019

Order pronounced on 17.12.2019

ORDER

Per: Dr. Bhagwan Sahai, Member (A)

Shri Prakash Lokadu Sonwane, Ex-Loco
Pilot (Mail Express), Bhusawal, district
Jalgaon has filed this OA on 25.06.2014,
seeking quashing and setting aside of impugned
order of Disciplinary Authority dated
05.01.2009, order of Appellate Authority dated

22.09.2009 and order of Revisionary/Reviewing Authority dated 28.04.2014, with direction to the respondents to reinstate him in service from 05.01.2009 along with payment of all consequential benefits and cost of this application.

2. Summarized facts:

2(a). The applicant has stated that he belongs to Tokare Koli Community, which is a recognized Scheduled Tribe as per Constitution (Scheduled Tribe Order) 1950. He was issued a Caste Certificate dated 15.12.1981 by Executive Magistrate, Jalgaon certifying that he belongs to Tokare Koli Scheduled Tribe (Annex A-5). He states that in his school record and in the School Leaving Certificate, he was recorded as Hindu Koli.

2(b). He applied for the post of Apprentice Assistant Driver (Electrical)/Diesel Assistant to Railway Recruitment Board for selection in 1988 by submitting his application under Scheduled Tribe category with the Caste Certificate dated 15.12.1981. He was selected

and appointed as Assistant Driver on 20.09.1990, then was promoted as Goods Driver in 1993, as Passenger Driver in 1996 and as Mail Express Driver in 1998.

2(c). Based on a complaint in the year 2000/2001 against sixteen employees of the Railways alleging that they had submitted bogus Caste Certificates, the respondents wrote a letter on 02.07.2001 to the Executive Magistrate, Jalgaon for verifying genuineness of his Caste Certificate dated 15.12.1981. Tahsildar Jalgaon replied vide letter dated 06.12.2001 that perusal of record in that office revealed that the Caste Certificate dated 15.12.1981 had not been issued by that office and such record pertaining to issuance of that certificate was not available in his office (Annex A-6).

2(d). Based thereon, the applicant was issued charge memo on 05.12.2002 alleging that the Caste Certificate dated 15.12.1981 submitted by him was bogus/fake and he had secured employment based on it (Annex A-7). After

submission of his reply on 08.02.2003, the Disciplinary Authority appointed the Inquiry Officer and Presenting Officer to conduct the inquiry. The applicant claims that the prosecution witnesses did not depose anything against him. During the inquiry, he procured another letter from the office of Tahsildar, Jalgaon dated 14.07.2003 mentioning that prima facie it appeared that the Caste Certificate seems to have been issued by that office but no record of it was available and therefore, nothing could be said with certainty (Annex A-9).

2(e). The Inquiry Officer submitted his report holding that both the charges against the applicant stood proved that he had submitted bogus/fake Caste Certificate dated 15.12.1981 at the time of his initial appointment as Diesel Assistant and he got employment in the Railways against reservation quota on the basis of that bogus/fake Scheduled Tribe Caste Certificate. The applicant submitted his reply to the inquiry report on 27.12.2003

enclosing therewith 15 certificates of his relatives showing that they belong to Tokare Koli/HIndu Tokare Koli Community (Annex A-11).

Thereafter, the Disciplinary Authority vide letter dated 20.01.2004 directed the Inquiry Officer to conduct fresh inquiry in view of the new documents given by the applicant and submit report (Annex A-12).

2(f). The Inquiry Officer thereafter conducted fresh inquiry during which statement of the applicant was again recorded and then submitted his report stating that in view of conflicting certificates it was not possible to conclude whether the mention of Tokre Koli as a Scheduled Tribe in School Leaving Certificate of his children is correct and therefore, suggested that truth as to whether the applicant belongs to Hindu Tokare Community or Tokare Koli Scheduled Tribe Community be got verified by referring the case to the Caste Scrutiny Committee, Nashik. A copy of that inquiry report was supplied to the applicant by the Disciplinary Authority

seeking his reply which he submitted on 14.08.2006. Thereafter, the Disciplinary Authority issued a show cause notice to the applicant on 26.11.2006 proposing to impose penalty of removal from service with a copy of the speaking order dated 04.10.2006 stating therein that the charges had been proved against him in the Inquiry Officer's report and asked the applicant to submit his statement of defence. The applicant submitted reply on 06.01.2007 (Annex A-6). In the meantime, the Disciplinary Authority directed the applicant to submit E and F forms for scrutiny of his Caste Certificate by the Scrutiny Committee, Nashik.

2(g). The applicant in his representations dated 13.11.2007 pleaded that submitting of his case to the Caste Scrutiny Committee at the time of passing of final order was an after-thought and the respondents can send his Caste Certificate to the Caste Scrutiny Committee directly and did not fill up the E and F forms.

2(h). The Disciplinary Authority passed an order dated 05.01.2009 imposing on him a penalty of removal from service (Annex A-1). Aggrieved of it, the applicant filed an appeal before the Appellate Authority, which was also rejected vide order dated 22.09.2009 (Annex A-2). Thereafter, the Revision Petition dated 14.11.2009 was also rejected by order dated 17.08.2010 (Annex A-3). Therefore, this OA has been filed.

3. Contentions of the parties:

In the OA, rejoinder and during the arguments on 02.08.2019, the applicant has contended that-

3(a). based on his application, Sub-Divisional Officer, Bhusawal Division issued a certificate to the applicant on 10.11.2010 certifying that he belongs to Scheduled Caste Community Tokare Koli (Annex A-20). In various applications submitted to the office of Tahsildar, Jalgaon, he was replied that the register pertaining to 1981 was not available

and record of the letter of 07.01.2011 was also not available;

3(b). the respondent No.1 i.e. Chairman, Railway Board, New Delhi took considerable period of time to decide his Review Petition. The Tahsildar, Jalgaon also replied to DRM Personnel, Central Railway, Bhusawal on 20.06.2012 that 1981 register of Scheduled Tribe Caste Certificates was not available in that office and therefore, whether the Scheduled Tribe Caste Certificate dated 15.12.1981 was issued by that office or not, no clear opinion can be given (Annex A-25). Therefore, the orders passed by the Disciplinary Authority, Appellate Authority and Revisionary/Reviewing Authority are illegal and deserve to be set aside;

3(c). vide letter dated 31.07.2006, the Disciplinary Authority agreed with the finding of the Inquiry Officer that there was no clarity as to whether the applicant indeed committed misconduct alleged in the charge-sheet but illegally held that the charges had

been proved without following the procedure and therefore, the order of penalty deserves to be set aside;

3(d). the Disciplinary Authority did not record his disagreement note with finding of the Inquiry Officer in the show cause notice. Therefore, the impugned penalty order deserves to be set aside. The Reviewing Authority did not consider the reply of Tahsildar, Jalgaon dated 20.06.2012 sent to DRM Personnel, Bhusawal, which was contradictory to the position in the earlier letter of Tahsildar, Jalgaon dated 06.12.2001. Even the Certificate issued by Sub-Divisional Officer, Bhusawal on 10.11.2010 certifying that the applicant belongs to Tokare Koli Community was not considered; and

3(e). the complaint included the name of Shri Dilip S. Sonawane, who had retired voluntarily on 08.10.2012 and it was not against the present applicant but even then the respondents directly wrote a letter to Tahsildar, Jalgaon on 02.07.2001 and

12.10.2001. The respondents have not considered the subsequent certificate dated 10.11.2010 produced by the applicant and Caste Certificates of his relatives. Therefore, the OA should be allowed.

3(f). The applicant has also attempted to benefit from a Supreme Court decision (two member Bench) dated 11.10.2018 in Civil Appeal No.10396/2018 (**Gajanand Marotrao Nimje Vs. Reserve Bank of India**) by which the decision of Nagpur Bench of the Bombay High Court dated 13.04.2018 directing the respondents to terminate the applicants therein from service and recover all the benefits earned by them in service was modified ordering that the appellants be placed below the last of the General Category candidate as on 28.11.2000 and continued as such till their superannuation. All the benefits earned by the appellants as reserved category candidates after 28.11.2000 will be surrendered and recovered and after that date the benefits available to the reserved Category candidates

will be given to the members of that category regarding whom there will be no dispute.

In their reply, sur-rejoinder and during the arguments on 02.08.2019, the respondents have contended that-

3(g). the applicant was appointed as Diesel Assistant on 20.09.1990 under Scheduled Tribe Category on the basis of a Scheduled Tribe Certificate dated 15.12.1981 submitted by him as having been issued by Executive Magistrate, Jalgaon, on the basis of his affidavit claiming that he belonged to Tokare Koli, a Scheduled Caste Community;

3(h). on receipt of a complaint from one Shri Dilip Sadashiv Sonawane regarding submission of false Caste Certificates by many employees and taking undue advantage of Scheduled Tribe Community, the respondents wrote a letter to Tahsildar, Jalgaon to verify genuineness of the Caste Certificate submitted by the applicant. Tahsildar, Jalgaon vide reply dated 06.12.2001 informed that no such Caste Certificate bearing No.MAG/S/R/81/82 dated

15.12.1981 had been issued by that office in favour of the applicant;

3(i). thereafter, for having submitted bogus/fake Caste Certificate at the time of his appointment, disciplinary proceedings were initiated against him and charge-sheet was served under Rule 9 of Railway Servants (Discipline and Appeal) Rules, 1968. He was provided reasonable opportunity to prove his Caste Certificate as genuine, but he failed to do so. Therefore, based on report of the Inquiry Officer, concluding that the charges stood proved, the Disciplinary Authority passed the order of his removal from service, which was upheld by the Appellate Authority and the Reviewing Authority;

3(j). the applicant had claimed that his parents were illiterate and therefore, by mistake the School Authority mentioned in his school record that he is belongs to Hindu Koli Community. During the disciplinary proceedings, it is discretion of the Inquiry

Officer to examine or not to examine additional witnesses on merit of the case;

3(k). the Railway Administration (Respondents) has every right to examine at the time of appointment and at any subsequent stage during the service the legality and authenticity of any document submitted by an employee, whenever there is any complaint/dispute/doubt about genuineness of such document. Therefore, on receipt of a complaint, the respondents decided to examine the genuineness of his Scheduled Tribe Certificate dated 15.12.1981;

3(l). the full case record including the documents mentioned by the applicant in paragraph No.4.9 of the OA were submitted to the Revisionary/Reviewing Authority i.e. Hon'ble President of India, who has considered the applicant's Review Petition dated 07.07.2011 and found that no new evidence was produced by him. Therefore, there was no change in the status of genuineness of the Scheduled Tribe Certificate submitted by him.

and accordingly, his Review Petition was rejected by the Railway Board order dated 28.04.2014 (Annex R-1);

3(m). since the required procedure under the disciplinary proceedings as per Rule 9 of the Railway Servants (Discipline and Appeals) Rules, 1968 has been properly complied with and the charge of submission of bogus certificate of Scheduled Tribe by the applicant having been proved, the punishment imposed is proper and justified. To prove genuineness of his Caste Certificate dated 15.12.1981, he has been deliberately avoiding to appear before the SC/ST Certificate Scrutiny Committee, Nashik;

3(n). the applicant has made futile attempt to divert the attention of the Tribunal by enclosing a copy of a letter from Tahsildar, Jalgaon dated 14.09.2016 with reference to the applicant's letter dated 14.09.2016 for verification of the earlier letter from that office dated 06.12.2001. Therefore, there is no merit in the OA and it should be dismissed.

3(o). The respondents have relied upon the Supreme Court decision (three Member Bench) dated 06.12.2017 in Civil Appeals No.8928 of 2015 and 26 other Civil Appeals [Chairman and Managing Director, Food Corporation of India and others Vs. Jadgish Balaram Bahira and others reported in (2017) 2 SCC (L&S) 708] has holding that -

(i). once legislation dealing with the same subject matter i.e. **Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category Act, 2000** (Maharashtra Act 23 of 2001) came to be enforced in the State, exercise of discretionary jurisdiction would be unwarranted. When verification by Scrutiny Committee of claim based on Caste Certificate has been found to be false claim, *mens rea* or dishonest intention of claimant is not required to be established for cancellation of admission/appointment/withdrawal of benefits.

(ii). With reference to reservation/concession/exemption/relaxation and affirmative action for SC, ST, OBC and minorities, the burden of proving that a person seeking admission in educational institution or employment under reserved category belongs to that category lies on him or her who makes such claim on the basis of the Caste Certificate.

(iii). Section 7 of that Act confers powers upon Scrutiny Committee to verify claim, both in respect of Caste Certificate issued prior to and subsequent to enforcement of the Act on 18.10.2001.

(iv). Section 8 relates to burden of proof and envisages that in any application for issuance of the Caste Certificate by the Competent Authority, in an inquiry conducted by the Competent Authority or Scrutiny Committee or Appellate Authority or any trial of any offence under the Act, the burden of proving that the person belongs to such caste, tribe or class shall be on the claimant applicant.

(v). Invalidation of the Caste Certificate may result in two consequences i.e. immediate cancellation or withdrawal of the benefits received by the candidates on the basis of a false Caste Certificate and prosecution of a claimant who produced the certificates which is found to be false by the Scrutiny Committee. The intent of a candidate may be of relevance only if there is a prosecution for a criminal offence.

(vi). However, where civil consequence of withdrawing the benefits which have accrued on the basis of a false caste claim is in issue, it would be contrary to the legislative intent to import the requirement of a dishonest intent. Since services under the Union and the State or under their instrumentalists are instruments of governance and sub-serve a public purpose, the selection of ineligible persons is a manifestation of systemic failure and a deleterious effect on good governance.

Firstly, such selection causes detriment to a genuine candidate who actually

belonged to reserved category and who is deprived of the seat. The detriment is caused to entire class of persons for whom reservations are intended and the members of which are excluded as a result of admission granted to an impostor who does not belong to the class.

Secondly, the rights of eligible persons are violated since an ineligible person for that post is selected.

Thirdly, an illegality is purported by bestowing benefit upon an impostor undeservingly. The fraud on the Constitution precisely lies in this.

(vii). When the State Legislature has made a statutory decision amongst competing claims based on a public policy perspective, the Court must respect it.

3(p). Therefore, in view of the law settled by the Apex Court as above, since the applicant could not prove genuineness of his Scheduled Tribe Caste Certificate and

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fraudulently obtained employment under that category, the OA should be dismissed.

4. Analysis and conclusions:-

4(a). We have perused the OA memo and its annexes, rejoinder of the applicant, reply and sur-rejoinder filed by the respondents, caselaws cited by both the parties and considered the arguments advanced by both sides on 02.08.2019. We have also perused the original case record made available by the respondents.

4(b). From careful examination of the case record and consideration of rival submissions of the parties, the position is analyzed in the following paragraphs.

4(c). The main issues for decision in this OA are whether the Scheduled Tribe Caste Certificate dated 15.12.1981 was issued by Competent Authority and whether its genuineness was confirmed by the Competent Scrutiny Committee and whether the respondents were justified in imposing the punishment of

removal from service on the applicant due to his failure to prove genuineness of his Scheduled Tribe Caste Certificate dated 15.12.1981.

4(d). The applicant got employed with the Central Railway, Divisional Office, Bhusawal, district Jalgaon, as Assistant Driver on 20.09.1990 against a Scheduled Tribe Reserved vacancy, based on his Tokare Koli Scheduled Tribe Certificate, claimed to have been issued by the Executive Magistrate, Jalgaon on 15.12.1981.

4(e). Based on a complaint that a number of persons had obtained employment with them under Scheduled Tribe Category with bogus/fake Caste Certificates, the action taken by the respondents to get genuineness of the applicant's certificate verified by the office of Tahsildar/Executive Magistrate, Jalgaon was necessary and done rightly.

4(f). Tahsildar, Jalgaon in his reply dated 06.12.2001, informed the respondents that on the basis of Book Registers in that office

relating to Caste Certificates of Tokare Koli Scheduled Tribe, the Caste Certificate dated 15.12.1981 was not issued to Shri Prakash L. Sonawane i.e. the present applicant. That reply finally settled the issue that the certificate dated 15.12.1981 was fake. The applicant thereafter seems to have done some correspondence with office of the Executive Magistrate, Jalgaon which is not relevant to prove the main issue involved in the case.

4(g). During the course of the disciplinary inquiry, the applicant produced another Tokare Koli Caste Certificate claiming to have been issued by the same Executive Magistrate, Jalgaon on 17.09.1989 (page 17 and 14 of original case file). The case record further reveals that in the Secondary School Leaving Certificate dated 23.06.1980 issued by Jagjivandas English School, Edlabad, the place of birth of the applicant was mentioned as Yawal and his caste was mentioned as Hindu Koli. Similarly in his Higher Secondary (12th pass) School Leaving Certificate issued by

Sane Guruji School, Yawal dated 06.06.1984,
his caste was mentioned as Hindu Koli OBC.

The office of Tahsildar, Jalgaon seems to have subsequently on 30.04.2010, 04.05.2009 and 20.06.2012 and finally on 14.09.2016 (page No.180) replied to the applicant that record of such Scheduled Tribe Certificates was not available in that office. Therefore, the letter dated 14.09.2016 (page No.180) cannot help the applicant.

4(h). The interesting facts of this case are that the applicant submitted multiple Scheduled Tribe certificates. His native place is Yawal, a Tahsil for more than 100 years. His brothers were issued caste certificates by Executive Magistrate, Yawal in 1976 and 1982. But he obtained twice for himself the Scheduled Tribe certificate from Executive Magistrate, Jalgaon on 15.12.1981 and 17.09.1989. Then he again obtained the third certificate from the SDO, Bhusawal dated 10.11.2010. However, his Secondary School Leaving Certificate dated 23.06.1980 as well

Higher Secondary School Leaving Certificate dated 06.06.1984 mentioned his caste as Hindu Koli OBC based on his own school record.

Since both the ST certificates mentioned place of birth of the applicant as Yawal and his caste in the School Certificates was Hindu Koli, the Inquiry Officer in his report dated 27.10.2003 rightly concluded that the ST Certificates dated 15.12.1981 and 17.09.1989 submitted by the applicant were not genuine, they could not be relied upon and, therefore, charges against him stood proved.

4(i). As per Section 2(b) of the Maharashtra Act 23 of 2001 and earlier instructions, the Competent Authority to issue the Caste Certificates is modified by the Government of Maharashtra. At the time of issuing a Caste Certificate, on an application, the Competent Authority i.e. the concerned Executive Magistrate and Tahsildar in whose jurisdictional area the place to which the applicant originally belongs is located issues the Caste Certificate on the

basis of inquiry and verification of Revenue record from the concerned village level Revenue Officer (Talathi/Patwari), school certificates and birth certificates of that applicant issued by village panchayat or municipal body.

4(j). In the present case his School Leaving Certificate of 23.06.1980 was issued before he obtained the first Certificate of Scheduled Tribe dated 15.12.1981. The second School Leaving Certificate of 06.06.1984 was also issued before the date of issuing of the second Caste Certificate to applicant on 17.09.1989 by the same Executive Magistrate, Jalgaon with the same signature, who was not the Competent Authority for issuing those certificates to the applicant. Thus it is beyond understanding as to how the two caste certificates could have been issued to the applicant by the same Executive Magistrate, Jalgaon after a gap of 8 years when both the School Leaving Certificates clearly mentioned his caste as Hindu Koli OBC and his place of

birth as Yawal. Then he also got the third certificate issued by SDO, Bhusawal.

4(k). In addition, the native place of the applicant was Yawal, itself a Tahsil. Hence as per Section 2 of the Maharashtra Act, the Competent Authority to issue the Caste Certificate was the Executive Magistrate, Yawal, who could have issued the certificate after verification of the Revenue record, village panchayat or Municipal Council record and the School Leaving Certificate. The applicant has not submitted any notification of Government of Maharashtra under which the Executive Magistrate, Jalgaon was the competent authority to issue the caste certificate claimed by him when his native place was Yawal. In such a situation, not only the Executive Magistrate, Jalgaon was not competent to issue the Caste Certificates to the applicant, based on his School Leaving Certificates no Executive Magistrate could have issued a Caste Certificate to him as belonging to Tokare Koli Scheduled Tribe and

that too twice with the same signature after a gap of 8 years. That is why it was replied by the office of Tahsildar, Jalgaon that the Certificate had not been issued by that office. Hence these certificates produced by the applicant were of no relevance, they had to be taken as fake.

4(1). The Inquiry Officer had thus rightly concluded that on verification the Scheduled Tribe Certificate submitted by the applicant dated 15.12.1981 was not found to be genuine/correct and thus, the applicant obtained employment under ST Reserved quota based on bogus/fake Scheduled Tribe Certificate thereby violating Rule 3 of Railway Services (Conduct) Rules, 1966. The Disciplinary Authority on 20.11.2003 made a copy of that inquiry report available to the applicant (Annex A-10) and sought his response thereon, to which the applicant replied on 27.12.2003 enclosing therewith copies of fifteen certificates of his relative (Annex A-11). Thereafter, the Disciplinary Authority

by his letter dated 20.01.2004 asked the Inquiry Officer to conduct fresh inquiry in view of the new documents submitted by the applicant in his defence (Annex A-12). But in view of some of those documents mentioned the caste as Tokare Koli and others as Hindu Koli or Koli, the Inquiry Officer suggested to get the applicant's certificates verified by the Scrutiny Committee, Nashik.

4(m). In the list of additional certificate submitted by the applicant on 27.12.2003, at Serial No.10 is a mention of Certificate No.1218/2003 dated 23.09.2003 issued by the Chief Officer, Municipal Council, Yawal regarding birth of applicant's father Late Shri Ladaku Lahanu Koli. However, a perusal of that certificate at page No.152 of the original record reveals that it was not a certificate issued by the Chief Officer of Yawal Municipal Council. It was only a letter stating that as per 1914 register of births and deaths, the name of Lodaku Lahanu Koli was not traceable, therefore, his birth

certificate cannot be issued. It was neither the birth certificate nor it was for the applicant's father i.e. Shri Lokadu Lahanu Sonawane, it was for one Shri Ladaku Lahanu Koli !!! This proves to what extent the applicant can make totally false and bogus claims.

4(n). In that certificate/letter expressing inability to issue the birth certificate of Shri Lodaku Lahanu Koli, not only the name of the person is not that of the applicant's father (Lokadu), the surname mentioned is also Koli whereas the surname of the applicant on record is Sonawane.

4(o). Subsequently, as submitted by the respondents, the applicant was repeatedly asked to get genuineness of his Caste Certificate verified by the Caste Scrutiny Committee, Nashik, but he did not do so by taking a specious plea that verification of his certificate at that stage was an after-thought. This is totally against the stipulations under the Service Rules and the

Maharashtra Act 23 of 2001. The respondents/employers are competent to ask the applicant to submit verification of his Scheduled Tribe certificate dated 15.12.1981 by the Scrutiny Committee, Nashik.

4(p). As per Section 7 of the Maharashtra Act, 2001 when a person not belonging to any of the SC, ST, Denotified Tribes, Nomadic Tribes or OBC has obtained a false caste certificate either for himself or his children for belonging to such caste, the Scrutiny Committee may inquire the correctness of such certificate and if in its opinion the certificate was obtained fraudulently, by its order itself cancel or confiscate the certificate after giving the concerned person an opportunity of being heard and communicate so to the concerned person or authority. As per Section 8 of the Act, the burden of proving that he/she belongs to such caste, tribe or class, shall be on such claimant applicant. Accordingly, in the present case, the burden of proving was on him that the

certificate obtained by the present applicant as belonging to Tokare Koli Scheduled Tribe was genuine, which he has not discharged.

4(q). However, with reference to the case law relied upon by the applicant (**Gajanan Marotrao Nimje Vs. Reserve Bank of India**) cannot help him because it is to be mentioned that the facts of that case are not identical to the present case. The dispute in that case was about belonging of the candidates to Halba, Koshti/Koshti Caste/Community who had been appointed against Scheduled Tribe vacancy. In the present case, the dispute is about obtaining of employment by the applicant by submitting a fake/bogus Scheduled Tribe Certificate.

4(r). Further in view of the specific stipulations under the Maharashtra Act, 2001, the case law relied upon by the respondents i.e. **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others** is directly applicable to the present case.

4(s). Therefore, the applicant's claim of belonging to Tokare Koli Scheduled Tribe Caste based on that false Certificate by Executive Magistrate, Jalgaon is of no relevance. In view of the overwhelming evidence indicating falsehood of the Scheduled Tribe Caste Certificate submitted by the applicant and in spite of repeated opportunities provided to him by the respondents to prove its genuineness, he did not even cooperate to get the certificate verified by the Caste Scrutiny Committee, Nashik.

4(t). In view of these facts, the finding of the Inquiry Officer that the Tokare Koli Scheduled Tribe Caste Certificate submitted by the applicant was fake/bogus and he obtained employment based on such fake certificate, the subsequent decision of the Disciplinary Authority dated 05.01.2009 of removing him from service, dismissal of his appeal by the Appellate Authority by order dated 22.09.2009, the order of Revising Authority (General Manager) of Central Railway dated 09.08.2010 and order of the Revisionary Authority (Railway Board) dated 28.04.2014 rejecting the

Review Petition are fully justified and correct.

4(u). We note that the applicant has been provided adequate opportunity of defence during the proceedings, the principles of natural justice have been complied with and the punishment of removal from service is fully justified. There is no infirmity in the action of the respondents.

4(v). As per Section 10 of the Maharashtra Act, for submitting fake/bogus Caste/Class Certificate and claiming benefits in admission to educational institution and employment under the reserved Category, such benefits are to be withdrawn and amount of the financial benefits paid is to be recovered from such person. As per Section 11 of that Act, such person is also to be prosecuted and on conviction there is stipulation of rigorous imprisonment of not less six months, which may be extended up to two years. In the present case, however, no details have been brought on record about recovery of the financial

benefits and prosecution of the applicant after his removal from service.

4(w). The claim of the applicant in 3(c) above is also false. That letter of Disciplinary Authority dated 31.07.2006 did not mention about the claim being made by the applicant.

4(x). The claim of the applicant that SDO Bhusawal issued him a Caste Certificate of Tokare Koli on 10.11.2010 also cannot be relied upon, it seems only an attempt to give another spin to the issue. Because it was the third certificate produced by him based on the document submitted by the applicant which included the earlier fake Scheduled Tribe Caste Certificate claimed to have been issued to him by Executive Magistrate, Jalgaon on 15.12.1981. Surprisingly, neither in the OA nor in the list of documents submitted to the SDO, Bhusawal for obtaining Caste Certificate, the applicant disclosed about another certificate claimed to have been issued to him by the same Executive Magistrate, Jalgaon on

17.09.1989. Then why did he not get the certificate issued by SDO, Jalgaon, if he was the Competent Authority for that purpose. The main issue in the present case is of falsehood, of his initial certificate dated 15.12.1981. The record of all these attempts only proves that he is a habitual liar, who has been consistently indulging in falsehood.

4(y). From the above facts, it is clear that not only the applicant submitted three certificates as belonging to Tokare Koli ST dated 15.12.1981, 17.09.1989 and 10.11.2010 claiming to have been issued by the Executive Magistrate, Jalgaon and SDO, Bhusawal, he failed to prove genuineness of his ST Caste Certificate through the Competent Authority i.e. the Caste Scrutiny Committee, Nashik. Therefore, the conclusions of the respondents that the ST certificate submitted by the applicant was fake and based on it he had obtained employment. Therefore, the only course available before the respondents was to remove him from service and recover the

benefits obtained by him based on that certificate. Hence the action of the respondents was fully justified and there is no merit in the O.A.

4(z). In view of the above analysis, we find that the OA is totally devoid of merit and deserves dismissal with cost, which we fix as Rs.5000/- for having indulged in consistent falsehood and wasteful litigation.

5. Decision:

The OA stands dismissed with a cost of Rs.5000/- to be paid by the applicant to respondent no.4 in one month from date of receipt of certified copy of this order.

MA Nos.720/2016 and 827/2016 for production of record also stand disposed of.

(Ravinder Kaur)
Member (Judicial)

kmg/H.

(Dr. Bhagwan Sahai)
Member (Administrative)

*SD
.11/19*

