

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This The 20th Day Of May 2011)

Hon'ble Dr. K. B. S. Rajan, Member (J)
Hon'ble Mr. D. C. Lakha, Member (A)

Original Application No. 894 of 2007
(U/S 19, Administrative Tribunal Act, 1985)

Manish Kumar Son of Ram Jeet Ram Tailor Semi Skilled under
General Manager Ordnance Parachute Factory Kanpur R/o
Village Pah Saiyad Raja, District Ghazipur.

..... Applicant

By Advocate: Shri S. Narain
Shri Sajnu Ram

Versus

1. Union of India through Director General Ordnance Factory Board Khudi Ram Bose Road, Kolkata.
2. Additional Director General of O.E.F. Group (H.Q.), G.T. Road, Kanpur.
3. General Manager, Ordnance Parachute Factory, Kanpur.

..... Respondents

By Advocate: Shri R.C. Shukla

Along With

Original Application No. 893 of 2007
(U/S 19, Administrative Tribunal Act, 1985)

Naveen Kumar S/o Ram Jeet Ram, Tailor Semi Skilled under General Manager Ordnance Parachute Factory Kanpur, R/o Village Pah Saiyad Raja, Post Deoria, District Ghazipur.

..... Applicant

By Advocates: Shri S. Narain
Shri Sajnu Ram

Versus

4. Union of India through Director General Ordnance Factory Board Khudi Ram Bose Road, Kolkata.
5. Additional Director General of O.E.F. Group (H.Q.), G.T. Road, Kanpur.
6. General Manager, Ordnance Parachute Factory, Kanpur.

..... Respondents

By Advocate: Shri R.C. Shukla

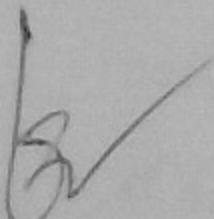
Along With

Original Application No. 890 of 2007
(U/S 19, Administrative Tribunal Act, 1985)

Sanjay Kumar Gond son of Sri Ram Jag Gond, Tailor/Semi-Skilled under General Manager, Ordnance Parachute Factory, Kanpur R/o Village Pah Saiyad Raja, Post Deoria, District Ghazipur.

..... Applicant

By Advocates: Shri S. Narain
Shri Sajnu Ram



Versus

7. Union of India through Director General Ordnance Factory Board Khudi Ram Bose Road, Kolkata.
8. Additional Director General of O.E.F. Group (H.Q.), G.T. Road, Kanpur.
9. General Manager, Ordnance Parachute Factory, Kanpur.

..... Respondents

By Advocate: Shri R.C. Shukla

O R D E R

(Delivered by Hon'ble Dr.K.B.S.Rajan, Member (J)

1. The above three O.As having one common legal issue in respect of verification of Caste Certificate, all the three O.As are dealt with in this order.
2. For the purpose of reference, the details of O.A. No.894 of 2007 have been referred to in this order.
3. The applicants are employed in the Ordnance Equipment Factory G.T. Road, Kanpur and their employment was cleared on the basis of Caste Certificate, which they have produced as for example the applicant in O.A. No.894 of 2007 had produced the certificate from Anumandal Padadhikari, Mohina. As it was observed that such certificates were not genuine but were fake certificate, a joint inquiry was conducted under Rule 14 of CCS (CC&A) Rules, 1965. Indeed, prior to the above proceedings as

the services for the individuals were terminated they had approached the Tribunal in O.A. Nos. 889 of 2005, 890 of 2005 and 891 of 2005 which were disposed of on 09.08.2005 in pursuance of which the aforesaid proceedings commenced. The Inquiry Officer having rendered the report, subsequent procedures were followed and the services of the applicants were terminated vide order dated 22.12.2006 by the Disciplinary Authority. Appeal was preferred against the order of termination and the Appellate Authority has also by order dated 13.07.2007 dismissed the appeal. Hence, this O.As.

4. Respondents have contested the O.A.. According to them, the procedure has been followed in accordance with the Rules and in pursuance of order of this Tribunal referred to above.

5. The applicants have filed the Rejoinder Affidavit, reiterating their contentions in the respective O.As.

6. Counsel for the applicants has argued that the respondents are expected to refer the matter to the Screening Committee constituted by the State in the wake of judgments by the Apex Court in the case of **Kumari Madhuri Patil v. ADDL. Commissioner** (1994) 6 SCC 241. This has not been done. The certificate issued by the authorities on the basis of which the applicants secured employment was said to be not genuine vide Annexure A-20 communication dated 12.07.2005 signed by one Shri Narendra Kumar Singh, Anumandal Padadhikari. The contents of this matter having been disputed by the applicant, the respondents are expected to prove the contents as true by

examining the author of the said communication. This has also not been done. In view of the above, according to the applicants' counsel the disciplinary proceedings get vitiated.

7. Counsel for the respondents justified the penalty order. He has also referred to the provision relating to the Temporary Service Rules and rules relating to probation and submitted that during probation the employer could terminate the services even without giving reason.

8. Written arguments were submitted by the counsel for the respondents, wherein the following decision of various Courts have been relied upon, which is as under:-

- (i) Judgment dated May 10, 2007 passed by Hon'ble Supreme Court in SLP No.2004 19889 of 2007 Additional General Manager/Human Resource Bharat Heavy Electricals Ltd. V. Suresh Ramkrishna Burde.
- (ii) Judgment dated September 02, 1994 passed by Hon'ble Supreme Court in Civil No.5854 of 1994 Kumari Madhuri Patil v. Additional Commissioner, Tribal Development.
- (iii) Judgment dated May 09, 2008 passed by Hon'ble Supreme Court in S.L.R. (C) of 2007 Union of India v. Bipad Bhanjan Gayen.
- (iv) Judgment dated February 15, 2008 passed by Hon'ble Supreme Court in Civil Appeal No.1639 of 2008 Union of India v. Dattatray Namdeo Mendhekar.
- (v) Judgment dated November 28, 2000 passed by Hon'ble Supreme Court in Civil No.2294 of 1985 State of Maharashtra v. Milind.

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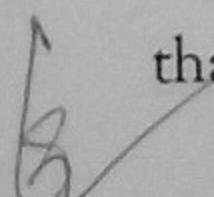
(vi) Judgment dated August 11, 2006 passed by Hon'ble High Court of Delhi Writ Petition (Civil) No.1604 of 2003 Ram Kumar v. Lt. Governor, G.N.C.T.D. "

9. Arguments by the counsel for the applicant and written arguments from the side of the respondents as well as pleadings have all been carefully considered.

10. The avowed object in slating in the Constitution various provisions for reservation in matters of employment, without at the same time compromising in the efficiency in Administration, is first to make the uneven terrain of the society, even, the unevenness having been the result of centuries of calculated oppression and habitual submission which has reduced a considerable section of our community to a life of serfdom. Such reservation policy alone would ensure that the members of the historically disadvantaged groups for centuries could catch up with the standards of competition set up by a well advanced society. Thus, under Article 16(4) reservation of a reasonable percentage of posts for members of the Scheduled Castes and Tribes is within the competence of the State.

11. While the framers of the Constitution have made such provisions for reservation, the executive is to translate the same into action and the executive is also expected to ensure that such concessions available exclusively to such oppressed class or community, are not abused or misused.

12. Various methods and means have been designed to ensure that no one gets any unintended benefits and if some one so gets

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such undeserving benefits, the same is searchingly investigated and at the earliest opportunity, the unintended benefits are withdrawn. One such method is to strictly follow the directions given by the Apex Court in the case of Kumari Madhuri Patil vs Addl. Commissioner, Tribal Development (1994) 6 SCC 241 which is as under:-

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.

13. The directions given in *Madhuri Patil* have been reiterated in *Director of Tribal Welfare, Govt. of A.P. v. Laveti Giri* in which while reiterating it was observed that the Government of India should have the matter examined in greater detail and bring about a uniform legislation in relation to these matters. In *Basant v. State of Maharashtra* this Court held that the constitution of the committee was not in accordance with the decision rendered by this Court in *Madhuri Patil* as such the appeal was allowed and it was directed to constitute the committee in terms of the decision of this Court in *Madhuri Patil* and decide the matter afresh. The said directions of this Court in *Madhuri Patil* regarding constitution of committee have been approved by a three-Judge Bench of this Court in *Sudhakar Vithal Kumbhare v. State of*

Maharashtra in which as the matter was not referred to appropriate committee in terms of directions given in *Madhuri Patil*¹ the appeal was allowed and it was directed that the properly constituted committee shall decide the matter. In view of the foregoing discussions it cannot be said that the directions given in *Madhuri Patil* were simply guidelines. (*Indian Bank v. R. Rani*, (2007) 12 SCC 796)

14. In a number of cases where there had been serious doubts whether the caste certificates produced by the individuals for seeking admission or employment are genuine or not, **the matter is invariably referred to the scrutiny committee formed in various states.** In this regard, decision of the Apex Court in the following cases refers:-

- (a) *Zila Parishad v. State of Maharashtra*, (2010) 6 SCC 592
- (b) *Central Bank of India v. Madhulika Guruprasad Dahir*, (2008) 13 SCC 170
- (c) *State of Maharashtra v. Reshma Ramesh Meher*, (2008) 8 SCC 664
- (d) *Union of India v. Dattatray*, (2008) 4 SCC 612
- (e) *Addl. G.M.-Human Resource, Bharat Heavy Electricals Ltd. v. Suresh Ramkrishna Burde*, (2007) 5 SCC 336,
- (f) *Punjab National Bank v. Vilas*, (2008) 14 SCC 545
- (g) *State of Maharashtra v. Sanjay K. Nimje*, (2007) 14 SCC 481

(h) *LIC of India v. Sushil*, (2006) 2 SCC 471, at page 471 :

(i) *R. Vishwanatha Pillai v. State of Kerala* (2004) 2 SCC 105

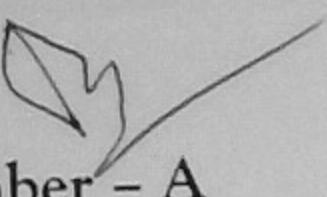
15. The above details make it very clear that whenever there is any doubt relating to the genuineness of any caste certificate, the matter has to be referred to the Screening Committee specifically constituted in the State for this purpose. Whatever may be the degree or standard of proof in holding the departmental inquiry, without referring the matter to the screening committee if the decision is arrived at by the Respondents which will have adverse consequences to the applicant, the same gets vitiated as the requirement of reference to screening committee for proper verification has not been fulfilled. Though it might be at the instance of the Tribunal that proceedings were initiated, in fact, at the time of passing the earlier order, this Tribunal could not consider the law on the subject as detailed above.

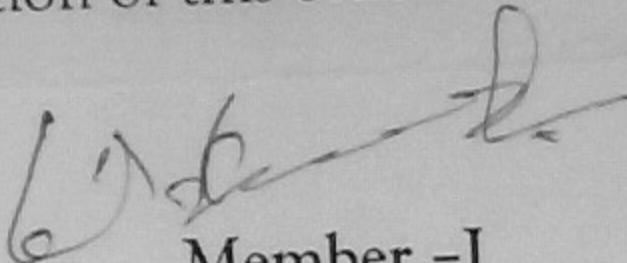
16. In view of the above O.As. are allowed. The impugned orders, namely, 22.12.2006, 13.07.2007, and 12.10.2006 in all the O.As are hereby quashed and set aside. Respondents shall reinstate the applicants and regularize period of their absence in accordance with the extant Rulers. They may refer the matter to the Screening Committee for due verification of the certificates and act on the basis of the decision thereof. The applicants are not entitled for the time being to any payment of salary/back wages for the period they had been kept out of service.. If the Screening Committee's recommendations are in favour of the

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Applicant the period of absence shall be treated as on duty with 50% back wages while the annual increment etc would be offered as if no charge sheet were issued. In case the Screening Committee's decision goes against the interest of the applicants, respondents may take suitable action as they deem necessary.

17. The above order shall be complied with within a period of four months from the date of communication of this order.


Member - A


Member - J

Sushil