

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.335/2000

THIS THE 08TH DAY OF AUGUST, 2003

CORAM: HON'BLE SHRI A.S. SANGHVI. MEMBER (J)
HON'BLE SHRI SHANKAR PRASAD MEMBER (A)

Smt. Nutan Vishwas Jathar,
W/o vishwas Bhausaheb Jathar
of Pune. Indian Inhabitant.
residing at Flat No.H-3.
Kirti Nagar Co-op. Housing Society
Limited. Vadgaon Budruk.
Pune-411 041. Applicant

By Advocate Shri S.V. Marne.

Versus

1. The Director and Disciplinary Authority (Dr. B.U. Naik)
Central Water and Power Research Station, Khadakwasala.
Pune-411 024.
2. Shri P.B. Deocalikar.
Chief Research Officer and Enquiry officer, Govt. of India.
Ministry of Water Resources.
Central Water and Power Research Centre, Post Office
Khadakwasala, Pune-411 024.
3. Deputy Secretary to the Government of India, Ministry of Water and Power Resources.
Shrama Shakti Bhavan.
Rafi Marg, New Delhi-110 001. ... Respondents

By Advocate Shri V.G. Rege.

O R D E R
Hon'ble Shri A.S. Sanghvi. Member (J)

The applicant who had obtained the appointment as Laboratory Assistant Grade-III in the office of the Central Water and Power Research Station with effect from 11th July, 1984 on the basis of belonging to the ST and on the quota reserved for the ST is now aggrieved by

her removal from the service on the ground that she had submitted a false certificate. She challenges the order of the Secretary to Government of India dated 05.01.2000 upholding the penalty of her removal from service by the Disciplinary Authority and seeks reinstatement in the service. The position that the applicant had at the time of recruitment to the post of Laboratory Assistant submitted a caste certificate dated 26.5.1980 issued by Tahsildar and Executive Magistrate, Taluk Haveri District Pune indicating her caste as Hindu Munnerwaraiu. The certificate was sent for verification of the caste to the caste scrutiny committee and on the report of the caste scrutiny committee that she did not belong to such a caste and it was a false certificate, the Disciplinary Authority after holding a due inquiry in the charges levelled against the applicant imposed the punishment of removal from service against the applicant. The Appellate Authority has also vide order dated 05.01.2000 upheld the penalty. The applicant has now approached this Tribunal seeking quashing and setting aside of this punishment order and also reinstatement in the service.

2. It is an undisputed position that after the caste scrutiny committee held that she did not belong to Hindu Munnarwaraiu and that the caste certificate was ~~a~~ false certificate the applicant had challenged that finding of the caste scrutiny committee by way of Writ

Petition No.5194/96. The Division Bench of Bombay High Court vide order dated 18th February, 97 held that the finding of the committee are fully justified and therefore rejected the petition. It therefore, goes without saying that the finding of the committee has become final and the applicant does not belong to the ST as contended by her.

3. It is not in dispute that the post for which the applicant had applied and had ~~obtained~~ was reserved for ST community and that her appointment was on the reserved quota. Now that it was found that she did not belong to ST community, it was quite obvious ^{that} she had succeeded in obtaining the service on the basis of false caste certificate. It can easily be inferred that she ~~had~~ ^{had} played with the authorities concerned and as such was liable to be removed from service once the certificate was rejected. In the case of G. Sundarasan Vs. UOI & anr. reported in 1995 92) SCSLJ 184 the Supreme Court ~~examining the~~ while ~~holding that~~ the question of seeking appointment by submitting false caste certificate has held that even after the retirement of the employee, the punishment ^{of} ~~upon~~ ^{for} ~~for~~ pension was justified where appointment was secured by submitting a false certificate. The judgment of Supreme Court is a small judgment and we reproduce the whole as under:-

"The petitioner was admittedly appointed in the quota of Scheduled Castes in the Income-tax Department and ultimately he

rose to the status as Income Tax Inspector. Three years prior to retirement, he was called upon to prove that he is scheduled caste and departmental enquiry was held. he was given opportunity and it was found, relying upon the entries in service book, S.S.L.C. Register and other documentary evidence, that he is not a member of the scheduled caste and as such he is not eligible to enjoy the status as a scheduled caste in the Government service. On that promise they imposed under Rule 14 of CCS (CCA) Rules, punishment of forfeiting his pension. Calling in question that order dated December 9, 1987, the petitioner filed an O.A. in the Tribunal. The Tribunal, after elaborately considering the evidence on record, confirmed the finding of the disciplinary authority that the petitioner had wrongfully gained appointment against the post reserved for Scheduled Castes and imposition of penalty of forfeiture of pension was legal.

We have gone through the reasoning of the Tribunal. We find that the same are perfectly justified. it is vehemently contended by the learned counsel for the petitioner, Sri Srinivasan, that a certificate was issued in 1956 by the competent authority stating that the petitioner belonged to the community recognised as a scheduled castes and a petitioner's grandfather belonged to Thotti Naicken community and he continued in office for the period of 30 years. At this belated stage, it cannot be held that he is not a scheduled caste and cannot be called upon to prove it once over.

We cannot appreciate this stand taken by the petitioner. it is for the petitioner to prove that he belongs to the Scheduled caste specified in the Presidential Notification in relation to the State to which he belongs and was born in S.S.L.C. register, the petitioner did not claim his status as a scheduled caste. On the other hand, his father's name was mentioned as Ganga Naidu and he claimed to be Hindu. In those circumstances the certificate obtained from the Revenue Authorities in the year 1956 is obviously a false certificate.

Under these circumstances the penalty of forfeiture of pension cannot be said to be unwarranted. The petition is accordingly dismissed."

4. Mr. S.V. Marne learned counsel for the applicant has however submitted that there was a delay of more than 4-5 years in referring the case of the applicant to the caste scrutiny committee and the proceedings were ^{not} initiated within reasonable time and as such the applicant could not have been removed from service. In support of his submission he has relied on the decision of Division Bench of High Court in the case of Anil Vasantrao Shirpurkar Vs. State of Maharashtra & Others reported in 2003 (1) ATJ 653. In that case the employee had joined the service of the Respondent No.3 on 9th August, 1994 and completed the probation period of two years and had been made regular with effect from 08th August, 1996. After about 7 years of his service i.e. in July 2001 the disciplinary proceedings were initiated against him and it was found that he had secured his service on the wrong representation of belonging to Dhoba community. The Division Bench of the Bombay High Court relying on the case of Chandrabhan Yamaji Nandanwar Vs. Director of Health Services, Maharashtra State, Bombay and others 1999 (1) Mh.L.J. 536 held that in case of caste scrutiny certificate, power should be exercised within reasonable time and as such lapse of about two years i.e. period of probation, ~~can't~~ ^{not} consider reasonable. Relying on the earlier Division Bench judgment, the Division Bench held that it cannot be said that the proceedings were initiated within reasonable period. It appears that the decision of the Supreme Court in the

case of G. Sundarasan (supra) was not cited before the Hon'ble High Court and the Hon'ble High Court's attention was not drawn towards the ratio laid down by the Supreme Court. It can be seen from the decision of the Supreme Court that even when the proceedings were started against the employee after putting up of 30 years of service, the Supreme Court had held that once the employee had failed to prove that he belong to SC/ST community he was not entitled to continue in the service. The decision of Bombay High Court is therefore ~~can easily be said to be~~ ^{ad} ~~said to be~~ per incuriam and cannot be relied upon to hold that the proceedings against the applicant were not initiated in time and as such the applicant is entitled to be reinstated in service.

5. We may also point out ^{that} securing service on the basis of false certificate is a fraud committed by the employee and as and when the fraud is detected the employee is liable to be removed from service. The question of delay in such case does not arise at all. Under the circumstances, we are of the opinion that there is no reason to interfere with the finding of the Disciplinary Authority and confirmed by the Appellate Authority and that there is no case made out for our interference so far as the punishment imposed on the applicant is concerned. We therefore reject this OA with no order as to costs.

Shankar Prasad

(SHANKAR PRASAD)
MEMBER (A)

A. S. Sanghvi
(A. S. SANGHVI)
MEMBER (J)

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