

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00249/2011

Jabalpur, this Monday, the 22nd day of July, 2019

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

Sameer Gabrial Lawrance (deceased) represented through
LRs

1. Arpana Lawrence, W/o Lt. Shri Sameer Gabrial
Lawrance, Aged about 43 years

2. Aksheev Samuel Lawrance, S/o Lt. Shri Sameer Gabrial
Lawrance Aged about 14 years, Through Applicant No.1
Arpana Lawrence, W/o Lt Shri Sameer Gabrial Lawrence,
Aged about 43 years,

Both r/o H.No.550 Ward No.30 Koldhana Chhindwara
(M.P.) 480001 **-Applicants**

(By Advocate –**Shri Manoj Sharma**)

V e r s u s

1. Union of India, Ministry of Railway, through its
General Manager S.E.C. Railway near Railway Station
Bilaspur (Chhattisgarh) Pin Code 495001

2. Divisional Railway Manager, S.E.C.Railway Near
Railway Station Nagpur (Mahashtra) PIN 440002

3. Sr. Divisional Personnel Operations Manager C/o
Divisional Railway Manager, SEC Railway Near Railway
Station Nagpur (Maharashtra) 440002

4. Station Manager, Railway Station, Chhindwara (MP)
PIN 480001

5. Collector, Office of Collectrate Jabalpur District
Jabalpur M.P. 482001

6. Shri M.K. Singh, Senior Divisional Operating Manager,
C/o Divisional Railway Manager, Near Railway Station
Nagpur (Maharashtra) PIN Code 440002

- Respondents

(By Advocate –**Shri A.S. Raizada &
Ms. Chanchal Sharma**)

(Date of reserving the order:-28.02.2019)

ORDER

By Ramesh Singh Thakur, JM:-

This Original Application has been filed by the applicants against the order dated 08.03.2011 issued by the Senior Divisional Operation Manager SEC Railway Nagpur whereby, the services of the applicant has been terminated with immediate effect on the allegation that the caste certificate submitted by the applicant at the time of his initial appointment on 07.08.1997 was found to have not been issued by the Office of Collector and District Magistrate Jabalpur.

2. The applicant has sought for the following reliefs:-

“8.i Call for entire material records pertaining to the instant controversy from the respondents for its kind perusal of Tehsildar Jabalpur may also kindly be called.

8.ii Quash and set aside termination order dated 08.03.2011 Annexure A/1 passed by Senior Divisional Operations Manager Nagpur.

8.iii Direct the respondent to all consequential monetary benefits.

8.iv Any other order/orders, relief/reliefs, which this Hon'ble Court deems fit and proper, may kindly be passed.

8.v Award cost of the original application to the applicant.”

3. The facts of the case are that the applicant was appointed as Junior Porter in Pay scale of Rs.750-940/- RSRP on 07.08.1997. The applicant was promoted on 09.11.2007 as Train Clerk (TNC). The Station Manager Chindwara has asked the applicant to attend office of District collector Jabalpur on 30.11.2009 along with caste certificate and other records. However, this letter was not served on applicant in person but was pasted on the notice board. The applicant could not attend office of Collector

Jabalpur on 30.11.2009 for the reason that applicant appeared for selection test at Nagpur on 29.11.2009. Applicant had decided to attend the office of Collector Jabalpur on 30.11.2009, but on way he felt unwell and returned to Chindwara. After consultation with the physician, the applicant took treatment and he had to apply for leave for 2 days. Thus, applicant could not attend the office of Collector Jabalpur on 30.11.2009. The applicant was served with a charge sheet in SF (Standard Form No.5) under Rule 9 of the RS (D&A) Rules, 1968 vide Memorandum dated 08.12.2010 (Annexure A/2). The applicant denied the charges and submitted representation on 07.01.2011 explaining at length his stand. The copy of reply is annexed as Annexure A/3. The inquiry officer has fixed the case on 11.03.2011. The copy of which was received on 07.03.2011, which is annexed as Annexure A/4. The applicant was shocked to receive the order dated 08.03.2011 signed by the Divisional Operations Manager SEC Railway as disciplinary authority, informing the

applicant that the Major Penalty Charge Sheet issued on 08.12.2010 has been dropped on account of following reasons:-

“However, while the inquiry proceedings are under process, this office is in receipt of collector and district Magistrate Jabalpur’s letter No.506 dated 28.02.2011 wherein it is informed that the verification reveals that your caste certificate which you had submitted at the time of appointment is not issued by their office which proves that the declaration of ST caste is false. So process for termination of your service is being taken.

Hence, the undersigned has decided to drop the charge sheet without prejudice”

4. Simultaneously on 08.03.2011 the applicant received another order dated 08.3.2011 whereby services of applicant has been terminated. The copy of which is annexed as Annexure A/1. The termination order included documents in the annexures. Vide letter dated 23.02.2011 of the Assistant Commissioner Tribal Welfare Jabalpur issued to Tehsildar/Nayab Tehsildar Nazul Jabalpur, to verify the caste certificate issued in favour of applicant. Vide letter dated 26.02.2011 the officer in charge and

Nayab Tehsildar Jabalpur to Assistant Commission Tribal Welfare has forwarded the report of three branches/sections to Tehsil office Jabalpur. Report dated 25.02.2011 of Tehsildar (Nuzul) Kotwali, Jabalpur, report dated 01-2011 of Tehsildar Gohalpur, report dated 26.02.2011 of Tehsildar Gorakhpur was forwarded. The reason given by the District Magistrate vide termination order dated 28.02.2011, is that caste certificate of the applicant was verified from concerned Tehsil, who had in turn informed the alleged caste certificate has not been issued by their office. The main ground for challenging the action of the respondents is that it was incumbent upon the District Magistrate to analyse the report and scrutinize the report of Tehsildar Jabalpur dated 26.02.2011 and have also overlooked the discrepancies in the report of Tehsildar. Out of three reports forwarded by officer in charge and Nayab Tehsildar Jabalpur, in two reports of Tehsildar Gohalpur and Gorakhpur merely states that their office came into existence in 2004 and the certificate

required to be verified was of 1993 as such the said certificate was not issued by their office. None of the Tehsildar has stated that the certificate was false or applicant does not belong to Scheduled Tribe (Gond) community. No opportunity of representation or show cause was provided to applicant before passing of impugned termination order dated 08.03.2011. So the impugned order is void ab-initio. Further ground 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.

5. The respondents have filed their reply. The respondent-department has submitted that the applicant has

refused to accept the letter dated 27.11.2009, therefore the letter was pasted on the Station Notice Board in presence of two witnesses as per rule. A copy of which is annexed as Annexure R/1. The selection for guard was scheduled for 28.11.2009 and 29.11.2009 and the applicant was asked to appear in the examination on 28.11.2009 so that he may attend the District Collector's office Jabalpur on 30.11.2009. He attended the examination on 29.11.2009 and reported sick on 30.11.2009 for two days. Accordingly, the applicant was served a letter by SR DOM Nagpur on 07.01.2010 which was received by him but did not acknowledge and did not proceed to Nagpur to SR DOM Nagpur. The applicant was advised/instructed on 11.01.2010 by SR DOM Nagpur. On 15.01.2010, it was asked that he should not be taken on duty till he attends the office of Senior DOM. But the applicant neither attend the office nor he attend his duties and remained absent unauthorisedly on 12.2010 to 18.01.2010. So, the applicant was in fact not interested in attending Government

officials with regard to the verification of caste certificate. Therefore the charge sheet was issued on 08.12.2010. It is admitted fact by the replying respondents that the charge sheet was also related to non-appearance on 30.11.2009 but the point for consideration for entire case is that whether the applicant who sought appointment against the reserved category was entitled under the law to be appointed against the post reserved for a reserved category candidate. The applicant has only taken the stand that the originals were submitted to DPO Nagpur. The replying respondents have specifically submitted that as per the appointment order specific condition was mentioned which is as under:-

“The appointment of the above named is subject to verification and their caste certificate. In case, any false caste certificate is detected on verification, their services will be terminated as per extant rules.”

6. It has been specifically submitted by the replying respondents that vide letter dated 28.02.2011 the District Collector Jabalpur informed that the caste certificate was

not issued from the office and therefore in view of the establishment serial No.132/90 and 21/92, the services of the applicant was to be terminated without any enquiry. Hence, no disciplinary authority DOM/NGP has attributed the charges leveled against him. Though the applicant was advised to contact the office of the Collector at Jabalpur but he deliberately avoided because it was not a genuine certificate. It has been further submitted by the replying respondents that the applicant's real brother is also serving in the railway as a Goods Guard, is a person from unreserved category. The copy of the front page of service records is annexed as Annexure R/2. So the fake certificate has been submitted by the applicant to get appointment against the Scheduled Tribe quota. Regarding the law settled by the Hon'ble Apex Court, the respondent-department did not dispute to it as is submitted by the replying respondents that in facts of the case there was no doubt in view of the communication received from the office of Collector that it was a fake caste certificate and

therefore there was no occasion to refer the matter to scrutiny committee. The respondent-department has denied that there is no malafide intention of the Senior DOM Nagpur. There was no occasion for invalidating or cancelling the caste certificate when it was not issued by competent authority. So *Madhuri Patil's* case has no application to the facts of the present case. It has been submitted by the respondents that the applicant's service has already been terminated in view of the rules and clear finding that the caste certificate was fake.

7. The applicant has filed the rejoinder to the reply filed by the respondents. It has been submitted by the applicant that in the peculiar circumstances the applicant could not attend the office of Collector Jabalpur on 30.11.2010 as he was sick and also submitted reasons for his inability to attend office of Sr. DOM Nagpur on the fixed date. A charge sheet was issued to the applicant on 08.12.2010 on this account which was subsequently withdrawn by the disciplinary authority on 08.03.2011. It has been submitted

by the applicant that the applicant had submitted the original caste certificate at the time of his initial appointment and the respondents should have annexed the caste certificate submitted by the applicant. There is no doubt on the point of clarity or about genuineness of the caste certificate produced by applicant then, in that event respondents should have got the certificate verified within reasonable time as per Railway Boards' letter dated 18.12.1981 and after 14 years this question has been raised. It has been submitted by the applicant that as per the judgment of the Hon'ble Apex Court in the matter of ***Kamal Nayan Mishra vs. State of Madhya Pradesh and others*** (2010) 2 SCC 169 has held as under:-

“Instructions to employees in preamble to attestation form envisaging that any false information could result in termination of employee's service without an enquiry, and undertaking to that effect required in verification certificate at the end of attestation form-contention that employee is stopped from objecting to termination without notice-held, said contention may merit acceptance in case of probationer but not in case of confirmed government employee. No term in attestation form, nor any consent given by a

government servant, can take away constitutional safeguard provided under Article 311 (2).”

8. The applicant has also submitted in his rejoinder that the alleged verification has been made by Tehsildar on 19.10.1993 which is not the actual case of the applicant. It has been further submitted by the applicant that the caste certificate which was provided by the respondent-department to Tehsil office of Jabalpur was very faint and was not readable and the officials of Assistant Commissioner Tribal Welfare had made some imaginary notings. There were three reports forwarded by the Officer-in-charge and Nayab Tehsildar Jabalpur. Two reports from Tehsildar Gohalpur and Gorakhpur merely states that their office came into existence in 2004 and the certificate required to be verified was of 1993, as such the said certificate was not issued by their office. So this letter of Tehsildar Kotwali Jabalpur was the basic document on which the collector's report as well as impugned termination order has been passed against applicant. The

factum of genuineness or falsehood is necessary to be examined by officer holding charge of Tahsildar in accordance with law. Copy of verification report as informed in the application dated 25.04.2011 is filed herewith as Annexure RA/1. It has been further submitted by the applicant that vide letter dated 27.11.2009 applicant was asked to attend office of Collector, Jabalpur on 30.11.2009. The applicant was advised to contact the office of collector at Jabalpur but he could not attend. No opportunity of hearing has been given to the applicant and the applicant has relied upon the judgment passed by the Hon'ble Apex Court in the case of ***Ram Pal vs. State of Haryana and others*** (2009) 9 SCC 187. The applicant has also relied upon the judgment passed by Hon'ble Apex Court in the matter of ***Kamal Nayan Mishra vs. State of Madhya Pradesh and others*** (2010)2 SCC 169 wherein the Hon'ble Apex Court has held that in case of dismissal of confirmed employee, without an enquiry or opportunity to show cause on finding that he has given incorrect or

false information in his personnel attestation form is entitled to constitutional safeguards provided under Article 311(2) of Constitution of India. It has been further submitted by the applicant that this is a fit case which should have been referred to High Power Caste Scrutiny Committee as per Judgment of Hon'ble Apex Court in the case of Ku. *Madhuri Patil* (supra).

9. The respondent No.5 has also been filed reply separately. In reply of respondent No.5 it is submitted that Senior Divisional Operation Manager, South Central Railway Nagpur Division, Nagpur vide its letter dated 21.02.2011 has asked the respondent No.5 to verify the caste certificate of husband of the applicant. In response to that letter, the answering respondent has instructed the Assistant Commissioner to verify the said caste certificate by enclosing the caste certificate issued by Tehsildar Jabalpur. The Assistant Commissioner, Tribal Welfare received information from the concerning officer to the effect that all the Tehsildars of three circles namely

Kotwali, Gohalpur and Gorakhpur have not issued the caste certificate from their office. On the basis of such report, the Collector has appraised the said fact regarding non issuance of caste certificate in favour of deceased employee Mr. Garial, husband of applicant, to Senior Divisional Operational Manager, South Central Railway Nagpur Division vide letter dated 28.02.2011 (Annexure R-5/2) along with report of Tehsildars of Circles Kotwali, Gohalpur and Gorakhpur as Annexure R/5/3.

10. We have heard the learned counsel for both the parties and have gone through the documents available on record.

11. From the pleadings it is itself clear that the applicant was appointed as Junior Porter and was promoted as Train Clark on 09.11.2007. It is also clear that the charge sheet dated 08.12.2010 under Rule 9 of RS (D&A) Rules, 1968 was issued against the applicant. The applicant submitted his representation on 07.01.2011 (Annexure A/3). Though the inquiry officer was appointed but later on the

disciplinary authority has informed the applicant that the major penalty charge sheet was issued on 08.12.2010 has been dropped. It is also admitted fact that the applicant received another order dated 08.03.2011 whereby services of applicant was terminated. The termination order included the documents. Vide letter dated 26.02.2011, the officer in charge, Nayab Tehsildar Jabalpur has forwarded the report of three branches/sections of Tehsil office Jabalpur to Assistant Commission Tribal Welfare. Report dated 25.02.2011 of Tehsildar (Nuzul) Kotwali, Jabalpur, report dated 01-2011 of Tehsildar Gohalpur, report dated 26.02.2011 of Tehsildar Gorakhpur was forwarded.

12. The main contention of the applicant is that the termination order has been passed on the report forwarded by the District Magistrate, Jabalpur which has been prepared on the basis of three reports of various Tehsildars namely Kotwali, Gohalpur and Gorakhpur. Out of these, two reports have indicated that matter pertains to 1993 and

the record is not available as the office has been created later on.

13. The next contention of the applicant is that no show cause notice was provided to the applicant before passing the impugned order dated 08.03.2011 which is against the principle of natural justice.

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. Regarding Railway Board letter dated 18.12.1981, it is the contention of the applicant that the respondent department required to verify the caste certificate within a reasonable period, as the applicant had joined service on 07.08.1997 and has submitted a caste certificate at that time. Therefore, the action of the respondent-department is contrary to the Railway instructions.

16. On the other side, the contention of the respondent-department is that they have written letter to the concern Collector and on the report of the Collector the respondent-department has issued the impugned order as there is no doubt to the fact that the caste certificate has not been issued by concerned authority. It is very much clear from the pleadings that the applicant was appointed on the basis of caste certificate which was produced by the applicant at the time of appointment. Though the letter has been issued by the respondent-department to the Collector, the report has been prepared on the basis of three reports received from the various Tehsildars. Out of three, two Tahsildars report have specifically communicated that the certificate pertains to 1993 and their office has been created later on. So, the record is not available. On the basis of those reports, the District Collector has issued letter dated 28.02.2011 to the fact that the concern caste certificate has not been issued from their office.

17. 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.

18. 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.

19. 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).

20. 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.

21. In the instant case, the respondent-department has issued the letter to the collector in the year 2011 and District Collector has informed regarding the caste certificate to the fact that it has not been issued from their office on 28.02.2011. From the facts in the case it is itself clear that three reports have been called from various Tehsildars and two of them have indicated that the matter pertains to 1993 and the office of Tehsildar has been created later on. So, the record has not been available. The respondent-department despite this has relied upon the report made available by the Collector and has terminated the service of the applicant. Moreover, 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.

22. In view of the above, we are of the concerned 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).

23. Resultantly, this Original Application is allowed. The order dated 08.03.2011 (Annexure A/1) passed by Senior Divisional Operations Manager, Nagpur, is 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 original 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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