

(2011) 03 KAR CK 0157
In the Karnataka High Court
Case No : Writ Petition No. 46638 of 2003

Bheemappa Balappa Pujari

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0157

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : V. Lakshminarayana, for the Appellant; K. Subha Ananthi, for Kasturi Assts. for R5-R7 and C. Jagadish, for R1-R4, for the Respondent

Final Decision : Allowed

Judgement

Anand Byrareddy, J.—Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents.

2. The facts for the case are as follows:

The Petitioner was appointed as a peon in the Respondent- State Bank of Mysore, represented by Respondent Nos. 5 to 7, at its Hiriyr branch. The Petitioner had rendered 18 years of service prior to the filing of this writ petition. He was issued with a show cause notice regarding verification of his caste on the ground that the Petitioner belonged to Ambiger community but the certificate produced by the Petitioner was as Tokre Koli community. Thereafter, the services of the Petitioner came to be terminated by an order of termination dated 11.05.2000. The question of the caste status of the Petitioner was referred to the District Caste Verification Committee, which took a view that the Petitioner had secured a false certificate. The said order was challenged by way of an appeal. The Appellate Authority had set aside the order passed by the Caste Verification Committee and remanded the matter for a fresh consideration. In that view of the matter, the Respondents have reinstated the Petitioner on the request made by the Petitioner, by his letter-dated 18.01.2001. This was subject to the out

come of the final decision of the Caste Verification Committee. The Petitioner had appeared before the Caste Verification Committee, which again by its order dated 03.09.2003, formed an opinion that the Petitioner did not belong to the Tokre Koli community. The Petitioner had originally challenged the order of termination following the disciplinary proceedings initiated by the bank and the order passed by the Caste Verification Committee dated 17.04.1999 before this Court in W.P. No. 19788/2000, which was disposed of by order dated 31.07.2003 on the ground that it did not survive for consideration.

The Petitioner after receiving the communication of the decision of the Caste Verification Committee dated 03.09.2003, and on legal advice, approached the Tahsildar-Dharwad with a request to extend the benefit of the Government Order dated 11.03.2002 at Annexure-H to the writ petition, which indicated that the State Government had taken a decision to continue the employment of persons such as the Petitioner notwithstanding that the caste certificate produced by them was found to be in correct or that it did not enable the Petitioner to seek benefits provided to certain scheduled tribes. This was also brought to the attention of the Bank through its Employers Union and in terms of the order of the Caste Verification Committee, the Petitioner has surrendered his caste certificate by a letter dated 22.10.2003 and therefore, the Petitioner has sought for the benefit of the Government Order dated 11.03.2002.

Respondent Nos. 5 to 7, representing the Management of the State Bank of Mysore, however, were contemplating dispensation of the services of the Petitioner and it is in that background that the present petition is filed.

3. The learned Counsel for the Respondents however, would submit that the present petition merely seeks a writ of mandamus, directing the Respondents to extend the benefit of the Government Order dated 11.03.2002 and to restrain the Management of the Bank from continuing disciplinary - proceedings against the Petitioner and to further restrain the Respondents from terminating the services of the Petitioner in view of the Government Order dated 11.03.2002 and in the absence of any challenge to the order passed by the District Caste Verification Committee dated 03.09.2003, which has attained finality. It is however, pointed out that the order passed by the District Caste Verification Committee is the second order passed to the same effect, since the earlier order passed has been challenged by the Petitioner before the Appellate Authority, which on remand by the Appellate Authority has been reconsidered by the District Caste Verification Committee and a fresh order has been passed. The same having attained finality, the Petitioner is not entitled for a direction as prayed for.

4. While the learned Counsel for the Petitioner would point out that having regard to the law which is well settled, the very jurisdiction of the Caste Verification Committee in passing such an order has been taken away by the constitution of a Committee on 06.08.2009 pursuant to the direction of the Supreme Court in the case of Kumari Madhuri Patila and another Vs. Addl.

Commissioner, Tribal Development and others, and from the year 2009, it is that committee which would have jurisdiction to address the caste status of an individual and none other. On the other hand, he would submit, without entering upon any other question, the petition could be disposed of while holding that the order passed by the Caste Verification Committee is a nullity since it would have no jurisdiction to decide the caste status of the Petitioner and would seek indulgence of thus Court in making a formal prayer in the petition to that effect, to seek quashing of the order passed by the Caste Verification Committee as it is nullity from inception.

5. The learned Counsel for the Respondents are quick on their feet to oppose such a measure as the prayer of the Petitioner to amend the petition at this late stage without going through thus formalities of an application made by the Petitioner seeking amendment of the prayer and the same being considered on merits, with objections in this regard being taken on record and thereafter, the Court may permit any such prayer being amended.

6. This exercise is wholly unnecessary in the admitted circumstances that the order passed by the Caste Verification Committee was without jurisdiction and is a nullity. However, it is still open for the authority to initiate proceedings and address the caste status of the Petitioner on the veracity and correctness of the caste certificate based on which, the Petitioner has obtained employment.

7. In view of the same, the Petitioner is permitted to amend the prayer to quash the order passed by the Caste Verification Committee dated 03.09.2003 at Annexure-F.

8. Accordingly, the writ petition is allowed. The order passed by the Caste Verification Committee at Annexure-F stands quashed with liberty to the Caste Verification Committee constituted in the year 2009 to take appropriate proceedings if it is so warranted. In that view of the matter, the Petitioner shall be continued in employment, pending such proceedings that may be taken to address the caste status of the Petitioner in accordance with law and the same shall be subject to the ultimate decision taken by the Committee regarding the caste status of the Petitioner.