

(2012) 07 P&H CK 0068
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 941 of 2012

New India Assurance Co. and Another	Vs	APPELLANT
Rita K. Singh and Another		RESPONDENT

Date of Decision : 10-07-2012

Acts Referred:

Citation : (2013) 2 SLJ 82

Hon'ble Judges : Rajiv Narain Raina, J; Hemant Gupta, J

Bench : Division Bench

Advocate : Ashwani Talwar, for the Appellant;

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The present appeal under Clause X of the Letter Patent has been filed for setting aside the judgment and order passed by the learned Single Judge on 4.4.2012 whereby the order of dismissal dated 18.12.2009 passed by the appellant--New India Assurance Company was set aside. The writ petitioner married Kuldip Singh, a person belonging to Scheduled Caste,, in the year 1984. On account of marriage with Kuldip Singh, the writ petitioner was issued Scheduled Caste Certificate by the Sub-Divisional Magistrate, Chandigarh on 30.9.1986.

2. The present appellant advertised the post of Assistant in the year 1987. The writ petitioner was appointed as a reserved category candidate against the said post of Assistant so advertised. Subsequently, the writ petitioner was charge-sheeted on 25.11.2004 inter-alia for the reason that the petitioner has failed to produce a Scheduled Caste Certificate from her parental side and, thus, she is not a Scheduled Caste entitled to be appointed against the reserved post. On the basis of enquiry conducted in pursuance of the said charge-sheet, the order of dismissal was passed on 18.12.2009. The Caste Certificate issued to the writ petitioner has been withdrawn vide order dated 30.7.2009 after the initiation of departmental proceedings.

3. It was the said order of dismissal which was challenged by the writ petitioner before this Court. The learned Single Judge has set aside the same for the reason that the writ petitioner was appointed against the reserved post keeping in view the law as then prevailing which permitted issuance of a Scheduled Caste Certificate to a wife on account of her marriage with a Scheduled Caste candidate. Recent judgment of Hon''ble the Supreme Court in Dattu Thakur Vs. State of Maharashtra and Others, was referred to wherein a candidate was admitted on the basis of Caste Certificate in an educational institution but such admission was not cancelled on the basis of cancellation of Caste Certificate.

4. Learned Counsel for the appellants has referred to the Circulars issued in the year 1953, 1975 and 1990 to contend that the writ petitioner could not have been issued the Scheduled Caste Certificate only on account of her marriage with a Scheduled Caste candidate. Reliance is placed on the judgments of Hon''ble the Supreme Court in Mrs. Valsamma Paul Vs. Cochin University and others, , Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir and Others, , Anjan Kumar Vs. Union of India (UOI) and Others, Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, & Dattu Namdev Thakur v. State of Maharashtra and Ors. (supra), in respect of the contentions that writ petitioner could not be appointed against the reserved category.

5. We do not find any merit in the argument raised by learned Counsel for the appellants. The writ petitioner was issued a Scheduled Caste Certificate on the basis of her marriage with a person belonging to a Scheduled Caste. It is not even alleged that the writ petitioner has concealed her status before marriage as that of a non Scheduled Caste person since certificates were issued by the Competent Authority on account of her marriage with a person belonging to a Scheduled Caste, keeping in view some of the judgments of Hon''ble the Supreme Court holding that marriage with a person of belonging to Scheduled Caste will confer the caste of her husband. Therefore, we do not find any illegality in the order passed by the learned Single Bench. In the absence of any fraud and misrepresentation at any point of time on behalf of the writ petitioner, the order of dismissal passed, on the basis of Caste Certificate issued in the year 1986, at this stage, is wholly unsustainable.

Consequently, the present appeal is dismissed.