

(2011) 01 KAR CK 0037
In the Karnataka High Court
Case No : Writ Petition No. 25907 of 2009

Prakash Keshav Ganguli

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 21-01-2011

Acts Referred:

Constitution of India, 1950 — Article 311, 341, 342 (2)
Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes
(Reservation of Appointments, etc.) Act, 1990 — Section 11

Citation : (2011) 01 KAR CK 0037

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : S.N. Bhat, for the Appellant; B.C. Seetharama Rao, for R-5 to 7, C. Jagadeesh for R-3 and S.R. Girji, HCGP for R-1 to 4, for the Respondent

Final Decision : Allowed

Judgement

V. Jagannathan, J.—The Petitioner calls in question his dismissal from the services of the New India Assurance Co. Ltd. and the order of dismissal dated 25.11.2008 (Annexure-G) and the subsequent order directing the Petitioner to hand over the documents etc, on being relieved following his dismissal (Annexure-H) as well as the report of the Civil Rights Enforcement Directorate (Annexure-F).

2. Brief facts which have led to the aforesaid orders being passed and now being questioned in this petition are that, the Petitioner joined the services of R-5 Insurance Company by giving his caste as "Kotegar" and the said caste falls under the Scheduled Caste. Caste certificate was issued by the Tahasildar during 1980-81 and after joining the service during 1980-81, he was promoted as Assistant Manager in 1991 and finally, at the time of dismissal, he was holding the post of Deputy Manager.

3. The District Level Caste Verification Committee received a report from the Additional Director General of Police (Civil Rights Enforcement Directorate) ("CRE

Cell" in short), which report contained the enquiry held into the caste of the Petitioner and the said report was to the effect that the Petitioner had obtained the S.C. (Kotegar Caste) certificate by furnishing false information to the Tahasildar to get the appointment under the reserved category in the New India Assurance Co. Ltd. and later on, obtained promotions as well. Therefore, while ordering cancellation of S.C. certificate issued in favour of the Petitioner the Extract Level Caste Verification Committee, by its order dated 30.11.2005, directed necessary action to be taken as per the Government Order dated 11.3.2002.

4. Subsequent to the receipt of the report from the CHE Cell dated 6.11.2008, wherein the Insurance Company was directed to dismiss the Petitioner from service, the Insurance Company passed the impugned order as per Annexure-G dismissing the Petitioner from its services with immediate effect. The order of dismissal was passed on 25.11.2008.

5. Learned Counsel Shri S.N. Bhat for the Petitioner argued that the order of dismissal cannot be sustained in law for various reasons. The first one is that, the Petitioner belongs to Kotegar community and was issued with the caste certificate by the Tahasildar during 1980-81 to the effect that the Petitioner belonged to scheduled caste. The Petitioner's community was treated as S.C. by the State Government and several persons had obtained the caste certification as belonging to S.C. from the Tahasildar and subsequently, the State Government issued Government Order dated 11.3.2002 to the effect that the persons, who had obtained caste certification belonging to S.T. caste will have to surrender the certificate for cancellation. However, they shall not be liable for penal action. The castes to which the said concession was given were Pariwara, Talwara (sic) and Kuruba communities and Beetha and Koli communities according to the Government Order dated 11.3.2002. Therefore, the submission made is that, when several persons had obtained caste certificates claiming that they belong to S.C. during the period from 1977 to 2002, the Petitioner, who was issued caste certificate during 1960-81 as belonging to S.C., therefore, is entitled to the very same benefit that was extended by the G.O. dated 29.3.2003.

6. The next contention urged is that the Government Order dated 11.3.2002 was also the subject matter of a writ before a Division Bench of this Court in Writ Petition No. 30939/2010 and the Division Bench declined to interfere with the said G.O. dated 11.3.2002. Further, a learned Single Judge of this Court in W.P. No. 287/2007 also took note of the G.O. dated 11.3.2002 and held that the said G.O. that gives the benefit of reservation obtained by persons for education and the Caste Verification Committee could not have gone into the correctness of the caste certificate issued in 1978 and therefore, this Court quashed the disciplinary proceedings and ordered Petitioner's employment to remain undisturbed.

7. The next contention put forward is that, even in the proceedings of the District Level Caste Verification Committee, it has been clearly stated that the caste certificate of the Petitioner requires to be cancelled and the action to be taken as per G.O. dated 11.3.2002 in other words, the concession given by the G.O. dated 11.3.2002 (Annexure-B), which was further extended to include the caste of the Petitioner by subsequent G.O. dated 29.3.2003 (Annexure-B) ought to have been kept in view by the CRE Cell. Therefore, the decision taken by the CRE Cell to direct the employer to remove the Petitioner from service is contrary to the two G.Os. at Annexures-B and C. Under such circumstances, R-4 employer could not have passed the order of dismissal merely on the basis of the report of the CRE Cell.

8. Apart from the above factors, the further submission made is that, before dismissing the Petitioner from service, no show cause notice was issued or any enquiry was conducted and as such, the dismissal order passed also suffers from infirmity of giving the Petitioner no opportunity of being heard before the Petitioner was issued with the order of dismissal. Apart from relying on the order passed by the Division and by the learned Single Judge referred to above, learned Counsel Shri S.N. Bhat for the Petitioner also referred to another Division Bench decision of this Court in the case of Paduthota Ramachandra v. Union of India reported ILR 1995 Kar 2712, to submit that this Court had directed the Government to move the Central Government and recommend necessary steps for the purpose of requesting the Parliament to pass appropriate legislation so as to include certain castes also under the S.C. Under these circumstances, when the Government itself had permitted inclusion of the Petitioner's caste in S.C. and had given concession by the two G.Os. referred to above at Annexures-B and C, the Petitioner could not have been dismissed by R-5 merely on the say of the CRE Cell. As such, the impugned order of dismissal, therefore, be set aside and the Petitioner be granted the relief to which he is entitled in law.

9. On the other hand, Shri S.R. Girij learned Government Pleader for R-1 to R-4, contended that the Petitioner had given a fake caste certificate and therefore, by virtue of the report of the District Level Caste Verification Committee, the CRE Cell directed the employer to dismiss the Petitioner from service forthwith. Since the report of the Caste Verification Committee is not seriously questioned by the Petitioner, it goes without saying that the Petitioner had obtained the caste certificate as belonging to S.C. though, in fact, he does not belong to S.C. The next limb of argument of the learned Government Pleader for R-1 to R-4 is that, the Petitioner, when he obtained the caste certificate, had suppressed the fact that he does not belong to Kotegar Metri community and therefore, for this reason also, the impugned orders call for no interference.

10. The next point urged by the learned Government Pleader for R-1 to R-4 is that the Apex Court, in the case of State of Maharashtra v. Milind reported in AIR 2001 SC 393, has held that the notification declaring any tribe or tribal community as belonging to S.C. or S.T. can be done only by the Parliament and

thus a caste, whether belongs to S.C. or S.T. can be decided only if they are included in the Presidential Order issued under Articles 341 and 342 of the Constitution.

11. Be also relied on the Apex Court decision in the case of Additional General Manager/Human Resource Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde, , to contend that the notification issued under Clause (1) of Article 342, specifying Scheduled Tribes, can be amended only by law to be made by the Parliament and it is not open to the State Governments or courts or any other authority to modify, amend or alter the list of Scheduled Tribes.

12. Reliance was also placed by the learned Counsel on the decisions of the Apex Court in the cases of R. Vishwanatha Pillai Vs. State of Kerala and Others, ; Ajay Gandhi and Another Vs. B. Singh and Others, and Bank of India and Another Vs. Avinash D. Mandivikar and Others, to support his submission that the order of dismissal cannot be interfered with and once it is shown that the Petitioner obtained a false caste certificate, no further enquiry is needed and no notice is also required to be issued to the Petitioner as the initial appointment itself is contrary to Article 311 of the Constitution of India. Another contention urged is that, the Petitioner, being a Central Government employee, cannot take the benefit of the Government Orders issued by the State Government.

13. Shri B.C. Seetharama Rao, learned Counsel appearing for the Insurance Company also adopted the above arguments submitted by the learned Counsel for R-1 to R-4.

14. In the light of the aforesaid contentions put forward and the decision cited, whether the order of dismissal passed by the Insurance Company can be held to be sustainable in law.

15. The Petitioner has mainly relied on the G.O. dated 11.3.2002 and the G.O. dated 29.3.2003, which are produced at Annexures-B and C respectively to contend that the caste to which he belongs was considered within the Scheduled Castes and accordingly, the benefits which were given under the G.O. dated 11.3.2002 were also extended to the community of Kotegar, Koteyar by the subsequent G.O. dated 29.3.2003.

16. The G.O. dated 11.3.2002, after referring to the decision of the Supreme Court in the case of State of Maharashtra v. Milind, ordered that, persons who had obtained S.T. caste certificates, though belonging to the other communities like Pariwara, Talwara, Maaleru, Kuruba, shall surrender the certificates but, however, though the benefit of reservation in respect of the said communities was put an end by the said G.O., it was also made clear that the persons, who obtained the said benefit, shall not be liable for any penal action, while the said order also made it clear that the benefits of reservation obtained by the persons mentioned in para-1 of the said G.O. in the education and employment on the basis of such wrong certificates, may also be not disturbed and the said G.O. also went on to order that enquiries pending before various Departments, Verification

Committees, Appellate Authorities, CRE Cell and other authorities shall stand abated or dropped.

17. Finally, the said G.O. also made it clear that the appointments already made in respect of the persons belonging to the communities mentioned therein, who have obtained employment under S.T. quota shall be treated as appointments under the G.M. category with effect from the date of the said G.O. and they shall not be eligible for any promotion or any other benefit as S.Ts. in future.

18. The aforesaid benefits given in the G.O. dated 11.3.2002 were also extended to other immunities by subsequent G.O. dated 29.3.2003 (Annexure-C) in the said G.O., it is clearly mentioned that persons belonging to Kote Kshatriya, Kotegara, Koteyava, Koteyara, Rama Kshatriya, Sherugara and Sharvegara communities, who had obtained the caste certificates as belonging to S.C. on the ground that the said communities being sub-castes of Kotegara Metric will (sic) get the benefit of the G.O. dated 11.3.2002 and the period during which the certificates were so obtained was also mentioned in the said G.O. as between 29.11.1977 and 11.3.2002.

19. It is not in dispute that, in the instant case, the Petitioner obtained the caste certificate during 1980-81 and this is clear from the proceedings of the District Level Caste Verification Committee. The said report, which is produced at Annexure-D dated 30.11.2005, had directed R-5 Insurance Company to cancel the caste certificate obtained by the Petitioner as Kotegar caste because, the Petitioner belongs to Koteyar caste and then to take necessary action as per G.O. dated 11.3.2002. The said Committee's report also indicates that the Petitioner's (sic) which consisted of parents apart from elder and younger sisters and younger brothers, had mentioned the caste as "Hindu Kshatriya Koteyar".

20. Once the G.O. dated 29.3.2003 had extended the benefit of G.O. dated 11.3.2002 to the persons belonging to various castes which have been mentioned earlier as claiming to be the sub-castes of Kotegar Metri, it makes little difference as to whether the caste of the Petitioner was mentioned as "Kotegar" or "Koteyar", as both these sub-castes are mentioned in the G.O. dated 29.3.2003. Therefore, the submission of learned Counsel Shri Jagadeesh for R-3 that the Petitioner belongs to Koteyar caste and not Kotegar caste makes not much difference in view of the G.O. dated 29.3.2003 including the sub-castes within Kotegar Metri caste.

21. As far as the G.O. dated 11.3.2002 is concerned, as well as the G.O. dated 29.3.2003, the G.O. dated 11.3.2002 was also considered by this Court in several cases and it is, therefore, useful to refer to the observations made by this Court in respect of the said G.O.

22. In W.P. No. 16452/2008, disposed of on 3.12.2009, a learned Single Judge of this Court, referring to the G.O. dated 11.3.2002, has observed that, though there is some apparent flaw in the G.O. dated 11.3.2002 by which the Petitioner and their ilk have secured appointments against the categories meant for S.T. on

the basis of the certificates issued by the Tahasildar certifying that the Petitioners and others belongs to S.T., the court went on to hold that it cannot but be held to be appointments contrary to Article of the Constitution of India. But, yet, the court finally observed that it is unfortunate that the said G.O. was not called in question and therefore, little can be done to interfere with the said G.O. and the question of the validity of the G.O. dated 11.3,2002, was kept open.

23. In W.P. No. 287/2007, disposed of on 19.1.2009, another learned Single Judge of this Court, after referring to the Apex Court decision in the case of Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, , also took note of the G.O. dated 29.3.2003 where the benefit was extended to the persons belonging to Kotekshatriya, Kotegara, Koteyava, Kotegara, Koteyara, Rama Kshatriya, Sherugara and Shervegara and observed that the effect of the G.Os. dated 11.3.2002 and 29.3.2003 makes it clear that the benefits of reservations obtained by the persona for education and employment based on the wrong caste certificates which have become final may not be disturbed. Therefore, issuance of charge sheet and disciplinary proceedings initiated were quashed.

24. A Division Bench of this Court, in a recent case of Sri Valmiki Nayaka Kshemabhruddhi Sangha v. State of Karnataka W.P. No. 30939/2010 disposed of on 5.10.2010, also considered the G.O. dated 11.3.2002 and refused to set aside the G.O. dated 11.3.2002. On the other hand, after referring to the benefit extended under the said G.O. dated 11.3.2002, the Division Bench ultimately observed that persons, who had sought admissions or appointments on the basis of the G.O. dated 23.1.1986, are entitled to the protection available u/s 11 of the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointments, etc.) Act 1990, and therefore, held that the impugned order dated 11.3.2002 which had extended protection cover was, therefore, fully justified.

25. In the instant case, the benefit given under the G.O. dated 11.3.2002 was further extended by the subsequent G.O. dated 29.3,2003 to include the cases of persons having obtained the caste certificates as S.C. persons entitling them also to the same benefit that was given to those to whom it was extended under the G.O. dated 11.3.2002. Apart from this, it has to be mentioned that the G.O. dated 11.3.2002 continues to remain in force and has not been held to be invalid by this Court in any of the aforementioned decisions.

26. If the benefits of the G.O. dated 11.3.2002 are also available to the caste to which the Petitioner belongs following the G.O. dated 29.3.2003 the effect of reading the two G.Os. in conjunction is that, all enquiries pending before various Departments including the CRE Cell and the other authorities as well as the Caste Verification Committee shall stand abated or dropped. But, in the instant case, despite the said order of the Government, the District Level Caste Verification Committee went ahead and gave its report on 30.11.2005, which it should not have given as all the enquiries pending before the Caste Verification Committee

or the CRE Cell etc, stood abated or dropped in view of the G.O. dated 11.3.2002. As such, even if the Petitioner does not seek quashing of the proceedings of the District Caste Verification Committee pursuant to the G.O. dated 11.3.2002, whatever enquiries that were pending are deemed to have been abated or dropped. Consequently, the subsequent order at Annexure-F dated 6.10.2008 also cannot stand the test of law.

27. Coming to the decisions cited by the learned Counsel for the parties, insofar as reliance being placed by the Respondent's counsel Jagadeesh particularly on the Apex Court decision in the case of Additional General Manager/Human Resource Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde, , is concerned, a two judge Bench of the Apex Court has held at paragraph-8 of the judgment that the notification issued under Clause (1) of Article 342 specifying Scheduled Tribes can be amended only by law to be made by Parliament and it is not open to the State Governments or courts or any other authority to modify, amend or alter the 1st of Scheduled Tribes and at paragraph-16, the Apex Court observed that the Respondent before it can get no benefit from the G.O. dated 15.6.1995 issued by the State of Maharashtra wherein some reservation in service is provided to members of Special Backward Class and the court held that as the Respondent before it was not an employee of the Government of Maharashtra, but being an employee of the Public Sector Undertaking of the Central Government, he cannot get any benefit. These two observations of the Apex Court were stronger relied on by learned Counsel Shri Jagadeesh for the Respondent to contend that, even in the case on hand, the Petitioner being an employee of the Insurance Company, he is not a State Government employee and therefore, he cannot take shelter under the two Government Orders under consideration.

28. Apart from the aforesaid decisions, the learned Counsel for the Respondent also placed reliance on the decisions of the Supreme Court in the cases of R. Vishwanatha Pillai Vs. State of Kerala and Others, , Bank of India and Another Vs. Avinash D. Mandivikar and Others, , Regional Manager Central Bank of India v. Madhulikar Gurupraaad Dahir, reported in AIR 2009 SC 3266, Union of India (UOI) Vs. Dattatray Mendhekar and Others, State of Tamil Nadu and others Vs. A. Gurusamy, , and State of Maharashtra v. Sanjay K. Nimje, reported in (2009) 1 SCC 519, to drive home the aforesaid contentions as well as to contend that, where the caste certificate is obtained by misrepresentation or a false caste certificate is produced, no necessity of issuing notice or holding enquiry arises and there can also be no violation of the

principles of natural justice. The aforesaid decisions

referred have been carefully gone through by the

also the decisions referred to by the Petitioner's counsel

29. Rearing on the aforesaid decision of the Apex Court in Addl. General Manager BHEL v. Suresh Ramkrishna Burde learned Counsel for the Respondents argued

that, in view of the observations made by the Apex Court at paragraphs 8 and 16, the decision of the Apex Court in *The State of Maharashtra v. Milind and Ors.* will have to be construed as applicable only to the facts and circumstances of the said case and not to all cases in general. Having carefully gone through the decisions cited by the learned Counsel for both the parties and taking note of the contentions put forward by the Respondents counsel Sri Jagadish relying on the aforesaid Suresh Ramakrishna Bumde's case, whether the impugned orders passed in the instant case can be held to be sustainable in law.

30. I have already referred to the Government Order dated 11.3.02 being left undisturbed by this Court in the aforementioned writ petitions as well as in the Division Bench order referred earlier. There is also no challenge by the Respondents to the aforesaid Government Order dated 11.3.02 by filing any separate writ petition questioning the validity of the said Government Order in the light of the Apex Court decision in Suresh Ramkrishna Burde's case and it is also a settled law that, in a petition filed by the writ Petitioner, no relief can be granted to the Respondents. Notwithstanding the aforesaid factors, I am of the view that the decision in Suresh Ramkrishna Burde's case also cannot come to the rescue of the Respondents for more than one reason.

31. The first reason is that, the decision in Suresh Ramkrishna Burde's case was rendered by a two Judge Bench of the Apex Court on 10.5.07 and is reported in *Additional General Manager/Human Resource Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde*, . On the other hand, the decision of the Constitution Bench of the Apex Court in *Milind's* case was by a Bench of 5 Judges. Therefore, as per the law of precedent and the principles laid down by the Apex Court itself, a decision of a Larger Bench and that too a Constitution Bench will have to be followed over a decision of a smaller Bench and as the decision of the Apex Court in Suresh Ramkrishna Burde's case is a Bench of two Judges, it is the Constitution Bench decision that will have to be followed.

32. The second reason is that, in the Constitution Bench decision in *The State of Maharashtra v. Milind and Ors.* after taking note of the contentions put forward before it where the question involved including Halba-Kosti in Halba Haibi caste was considered and though it was finally held in the said case that the Respondent Milind did not belong to Halba-Haibi caste so as to come within the scheduled tribe, but belonged to Halba-Kosti, yet the Apex Court gave protection to the 1st Respondent before it as by then he became a Doctor and ultimately the Apex Court observed thus:

We make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment.

33. Coming to the contentions raised with regard to the benefit given to the persons belonging to "Koteyar" and "Kotegar" caste by the Government Order dated 11.3.2002 as well as by the Government Order dated 29.3.2003 and the Petitioner being not an employee of the State Government and any change or

modification of the caste can only be done by the Parliament, all these contentions now put forward before this Court by the learned Counsel Sri Jagadeesh for the Respondent, can be answered by legating to a decision of the Apex Court and the said decision is in the ease of Punjab National Bank and Anr. v. Vilas (2009) 2 S.C.C. 143. A careful reading of the aforesaid decision of the Apex Court makes it dear that even in the said case reliance was placed by the Respondent who had been appointed in Punjab National Bank on Maharashtra Government Resolution dated 15.6.96 and that was also a case where contention similar to the one that is now taken via., that in respect of bank employee the Government Order cannot be pleased into service and after taking note of all those aspects and also referring to the Apex Court decision in Milind's case, the Apex Court observed thus at para. 17:

It is not necessary for us to consider the question as to whether protection provided in the Government Resolution dated 16.6.95 is applicable to a bank employee like the Respondent since the protection is provided in Milind case in no uncertain terms. This Court has very specifically observed at the end of para. 38 as under (Milind case, SCC p.31)

38. ...Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP (C) No. 16372 of 1985 and other related affairs, we make it clear that the admission and appointments that have become final, shall remain unaffected by this judgment.

Paras. 18 and 19 of the decision under consideration also requires to be referred to and they are as under:

18. It will be seen in Milind case that this Court came to the conclusion that Koshtis cannot claim the status of the Scheduled Tribe. The Supreme Court there was considering the specific question as to whether Halba-Koathi caste is a Scheduled tribe within the meaning of Entry 19 (Halba/Habli) of the Constitution (Scheduled Tribes) Order, 1950 related to the State of Maharashtra even though it was not specifically mentioned as such.

19. After referring to the 1950 Order and after considering a number of decisions on the question, ultimately the Court in Milind Case came to the conclusion that such status of Scheduled Tribe could not be conferred on those who were belonging to Halba-Koshti Caste. The decision, in that behalf Tendered by the Division Bench of the Bombay High Court was set aside. However, considering the circumstances that the Respondent who had become a doctor about 15 years back would be losing his status, the Supreme Court made the aforementioned observation. Therefore, it was tried to be suggested before us that the observations were applicable to that particular case and the fact therein ordinarily we would have been persuaded to accept the argument. However, fortunately for the Respondent this observation was later on relied upon by this Court in another decision in Civil Appeal No. 3375 of 2000 [arising out of SLP (C) No. 6524 of 1988] decided on 12-12-2000 wherein this Court observed:

The Appellant having belonged to Koshti caste claimed to be included in the Scheduled Tribe of Halba and obtained an appointment as Assistant Engineer. When his appointment was sought to be terminated on the basis that he did not belong to Scheduled Tribe by the Government a writ petition was filed before High Court challenging that order which was allowed. That order is questioned in this appeal. The questions arising in this case are covered by the decision in *State of Maharashtra v. Milind* and was got to be allowed, however, the benefits derived till now shall be available to the Appellant to the effect that his appointment to Assistant Engineer shall stand protected but no further. The appeal is disposed of accordingly.

34. As far as the Government Resolution dated 15.6.95 coming to the protection of the Petitioner or not in the case before it is concerned, the Apex Court observed at para. 21 that, if the Respondent even otherwise stands protected by *Milind* Judgment as also the judgment in Civil Appeal No 3375 of 2000 decided, on 12.12.2000, then it would be unnecessary to decide as to whether the Government Resolution dated 15.6.1995 provides protection to the Petitioner or not. The court also ultimately observed that the observations made in para. 17 in *Sanjay K. Nimje* case were held to be obiter.

35. In the light of the aforesaid principles laid down by the Apex Court in *Punjab National Bank v. Vilas*, wherein the court also took note of the decision rendered in *The State of Maharashtra v. Milind*, in my view, the case of the present Petitioner also falls on similar lines, in the sense, Petitioner obtained the caste certificate during 1980-81 by mentioning that he belonged to Kotegar community and the certificate was issued by the competent authority i.e. the Tahsildar. Even though, contention was put forward by the Respondent's counsel that the Petitioner belong to "Koteyar" and not "Kotegar" community, as I have stated in the earlier part of the order, irrespective of whether the community to which the Petitioner belongs whether "Koteyar" or "Kotegar" all such communities are covered by the Government Order dated 29.3.2003 and even the period covered in also from 29.11.1977 to 11.3.2002. The decision of the Apex Court in (sic) was not held to be applicable only to facts and circumstances (sic) case in view of the Apex Court decision in *Punjab National v. Vilas* which I have referred to earlier.

36. Under these circumstances, the other decisions (sic) too by the Respondent's counsel cannot be pressed into advantages in view of the law laid down by the Apex Court in *The State of Maharashtra v. (sic)* which was followed by the Apex Court later in *Punjab National v. Vilas*.

37. For all the aforesaid reasons the impugned orders at Annexures-F, G and L (sic) are liable to be quashed and the Petitioner will there to be ordered to be (sic) into service.

38. In the result, I pass the following order:

a. Writ petition is allowed. Impugned orders at Annexures-F, G and 1 are quashed.

- b. The Petitioner shall be reinstated into service with all consequential benefits from, the date of his dismissal including backwages.
- c. The Petitioner, however, shall not make use of the caste certificate issued to him as belonging to scheduled caste and he cannot take advantage of the caste certificate issued to him for any purpose in future.