

(2015) 11 JH CK 0025
In the Jharkhand High Court
Case No : W.P.(S) No. 1369 of 2011

Priyanka Kumari

APPELLANT

Vs

Deputy General Manager (Human Resources) I.D.B.I. Bank
Limited and Others

RESPONDENT

Date of Decision : 20-11-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 1 JLJR 160

Hon'ble Judges : Pramath Patnaik, J.

Bench : Single Bench

Advocate : Ashutosh Anand, Advocate, for the Appellant; Jitendra Kr. Pasari, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Pramath Patnaik, J.—In the accompanied writ application, the petitioner has inter alia prayed for quashing of the order dated 22.02.2011 passed by the Deputy General Manager, (Human Resources) IDBI Bank Ltd., Mumbai pertaining to termination of the services and for direction to the respondent-Bank not to give effect to the impugned order dated 22.02.2011 and also for direction to the National Commission for Backward Classes to include the Roniyar (Baniya) caste in the Central list of OBCs for the State of Jharkhand.

2. Sans details, the facts as depicted in the writ application, in short is that the petitioner was appointed on contractual basis on the post of Executive in IDBI Bank Ltd., basing on the caste certificate issued by S.D.O., Sadar Ranchi. She was initially posted at Surat and her contract as Executive was renewed on an annual basis by the Bank. The petitioner served in the Bank as Executive up to November 2010 and was lastly posted at Ranchi on 18.11.2010. The petitioner tendered her resignation in terms of Clause 15 of offer letter dated 01.11.2010 issued by Dy. General Manager (Human Resources), Mumbai for the post of Assistant Manager, Grade A based on internal examination and interview

conducted by IDBI Ltd. for executives. The petitioner submitted her caste certificate of OBC category Roniyar (Bania) issued by the S.D.M, Sadar Ranchi dated 18.12.2010 as required by the Bank. The petitioner joined as Assistant Manager, Grade A on 01.12.2010 at Ranchi, Main Branch and after completion of all formalities, she continued to discharge her duties most diligently. But, to utter surprise, the petitioner received a letter on 28.02.2011 issued vide order dated 22.02.2011 by the Dy. General Manager (Human Resources) IDBI Bank Ltd. Mumbai, whereby the services of the petitioner was terminated on the ground that the petitioner belongs to Roniyar (Bania) caste from the State of Jharkhand under the OBC category, which is not appearing in the Central list of OBCs for the State of Jharkhand as per the notification dated 18.08.2010 from the Government of India, Ministry of Social Justice and Empowerment, hence candidates belonging to the Roniyar (Bania) caste from Jharkhand would not be entitled for any relaxation under the OBC category. In the writ petition, the petitioner has annexed the circular issued on 29.11.2001, which is the basis of issuance of caste certificate. The letter issued by the Government of Jharkhand requesting the National Commission for Backward Classes to include the names of OBCs, and in such certificate the Roniyar (Bania) is at Sl. No. 20 in the Central list of State of Bihar and Jharkhand regarding Backward Classes. The petitioner sought information from RTI regarding inclusion of Bania in the Central list for the State of Jharkhand, as evident from Annexure-9 to the writ petition. It has been contended in the writ application that the respondent-Bank never raised any objection towards the services of the petitioner while serving as Executive for more than three years against the OBC category, Roniyar (Bania) on the basis of Caste certificate issued by the SDM, Sadar, Ranchi. The petitioner made a representation to the Chairman, National Commission for Backward Classes on 03.11.2011 for inclusion of Roniyar (Bania) in the OBC Central list for the State of Jharkhand.

Being aggrieved by the impugned order of termination dated 22.02.2011, vide Annexure-4, the petitioner left with no alternative and efficacious remedy, has approached this Court under Article 226 of the Constitution of India, invoking extraordinary jurisdiction of this Court for redressal of her grievance.

3. Per contra, counter affidavit has been filed on behalf of respondent Nos. 1 and 2 controverting the averments made in the writ application. In the counter affidavit, it has been inter alia submitted that while issuing the offer of appointment letter dated 01.11.2010 to the petitioner, it was mentioned in Clause-9 (III) that the appointment of the petitioner is provisional and is subject to the community certificate being verified through the proper channels and if the verification reveals that her claim belonging to other Backward Classes is false then her service will be terminated without assigning any reason and thereafter, the petitioner has joined the service of the respondent as provisional. The petitioner was appointed on the contract basis as Executive in the IDBI Bank Ltd. in the year 2007 on yearly basis and her services was renewed from 22.12.2008 to 21.12.2009 and 22.12.2009 to 21.12.2010 and the last renewal

was made on 22.12.2009 i.e. prior to the issuance of the Central Government Notification dated 18.08.2010, in which, the Government has issued Central list of OBC for the State of Jharkhand and in which "Roniyaar" does not find place in the category of OBC. It has further been submitted that earlier Central list for the State of Bihar was considered for the petitioner as no any Central list of OBC for the State of Jharkhand was published and in the said Central list of OBC for the State of Bihar the "Roniyaar" was the OBC and that is why earlier the services of the petitioner was not terminated and, therefore, the respondents have rightly terminated the services of the petitioner. It has further been submitted that the petitioner is not entitled to be treated as OBC in the State of Jharkhand, if her OBC caste finds place in the Central list of OBC for the State of Bihar.

4. A counter affidavit has also been filed on behalf of respondent No. 3, wherein it has been submitted that the caste Roniyar appears at Sl. No. 20 in Bania class before Pansari in the list, which has been sent to the Member Secretary, NCBC, New Delhi for declaration of Central list of OBCs for Jharkhand State, a copy of which with enclosures, has also been sent to the Secretary, Ministry of Social Justice and Empowerment, Government of India, vide letter dated 03.11.2008 (Annexure-A series to the said counter affidavit).

5. A counter affidavit has been filed on behalf of respondent Nos. 7 and 8, wherein it has been submitted that the NCBC in respect of State of Jharkhand has sent its advice dated 12.10.2010 to the Central Government under Section 9(1) of the Act, vide Annexure-R/1 of the counter affidavit.

6. Heard Mr. Ashutosh Anand, learned counsel appearing for the petitioner as well as Mr. J.K. Pasari for respondent Nos. 1 and 2, Mr. Yogendra Prasad for respondent No. 3 and Ms. Bakshi Vibha for U.O.I.

7. Learned counsel for the petitioner, in course of argument, has referred to the supplementary affidavit dated 04.07.2011 wherein by referring to Annexure-13 to the supplementary affidavit, it has been submitted that the NCBC considered the inclusion of the above caste and tendered the advice to the Government of India for notification.

8. Learned counsel for the petitioner has also referred to the supplementary affidavit dated 09.05.2014, wherein it has been submitted that the petitioner and another person Jitu Prasad, both belonging to Roniyar (Baniya) caste were appointed as Assistant Manager in IDBI Bank after due process of selection. The services of the petitioner and other Jitu Prasad were terminated on 22.02.2011 on same and similar grounds that "Roniyaar" (Baniya) Caste is not appearing in the Central list of OBC as per the notification dated 18.08.2010 and hence, they do not belong to OBC Category. The Roniyar (Baniya) caste was initially appearing in the State list, however, on account of sheer oversight, the same was not included when the list was revalidated and subsequently has been included. It has further been submitted that neither the petitioner nor the said Jitu Prasad's certificate was examined by any High Power Committee nor any enquiry

was conducted with respect to the validity of the caste certificate and hence the action of the respondents in terminating the services of the petitioner was bad and in teeth of the judgment of the Hon"ble Supreme Court of India reported in *Madhuri Patil v. Additional Commissioner, Tribal Development and Ors.* (AIR 1994 SC 94). It has further been submitted that the petitioner challenged the said termination order before this High Court whereas the said Jitu Prasad challenged the termination order before the Hon"ble High Court of Madhya Pradesh, Principal Seat at Jabalpur in W.P. No. 6440 of 2011. Pursuant to the said judgment, the said Jitu Prasad has been reinstated in services vide Office Order No. 1432 dated 22.06.2013 with all consequential benefits. It has further been submitted that in the erstwhile State of Bihar "Roniyaar" was included in the list of OBCs of Central list for State of Bihar and on reorganization the State list continued to operate while preparation of separate list, in view of technical problem regarding another caste "Roniyaar" was kept in abeyance. However, after disposal of the said technical matrix the "Roniyaar" caste has been included in the list of OBCs of Central list for the State of Jharkhand, vide Annexure-15 series to the affidavit. Learned counsel for the petitioner has strenuously urged that by virtue of the impugned order of termination the petitioner has been subjected to civil consequences. Learned counsel further submits that the case of the petitioner ought to be considered at par with the Jitu Prasad, whose termination order has been quashed by the Hon"ble High Court of Madhya Pradesh at Jabalpur in W.P. No. 6440 of 2011 vide order dated 06.12.2012, whereby said Jitu Prasad has been reinstated in services with all consequential benefits. Since, the petitioner and Jitu Prasad both were appointed on the basis of same caste certificate i.e. Roniyyar (Bania) and were terminated on the same basis, her case is to be decided afresh by the respondents.

9. Learned counsel for the respondent Nos. 1 and 2 has vehemently countered the submissions of the learned counsel for the petitioner by referring to Annexure-2/1 of the writ application, wherein, the offer of appointment in Clause IV reads as follows:

"Please note if your caste certificate (i) is not in proper format, (ii) does not contain the caste name as per the list of Government of India, and, (iii) does not contain seal of issuing office, your joining in the Bank would not be considered."

Learned counsel further submits that the caste certificate (Annexure-3) of the petitioner has been issued by the State of Jharkhand and admitted position is that the petitioner does not belong to Central Government OBCs list.

10. During course of argument, learned counsel for the respondent Nos. 7 and 8 has referred to the reply affidavit dated 03.03.2015 filed on behalf of NCBC to the third supplementary affidavit of the petitioner, wherein it has been mentioned that the Ministry of Social Justice and Empowerment, Government of India vide resolution dated 08.12.2011 has notified Roniyyar at Entry No. 122 of the Central List of OBCs for the State of Jharkhand. The copy of the resolution dated 08.12.2011 issued by the Ministry of Social Justice and Empowerment,

Government of India annexed herewith as Annexure-R-A/1. It has further been clarified that caste notified in the Central list of the Backward Classes is Roniyar and not Roniyar (Baniya) and the case cited at Para 6 of the supplementary affidavit i.e. Madhuri Patil v. Additional Commissioner, Tribal Development and Ors. (AIR 1994 SC 94) is not related to the facts of the present case. Learned counsel has further clarified that the caste Roniyar (Baniya) is not included in the Central list of other Backward Classes for the State of Jharkhand or Madhya Pradesh at any point of time.

11. After hearing the counsel for the respective parties and on perusal of the records, I am of the considered view that the petitioner has not been able to make out a case for interference due to the following facts, reasons and judicial pronouncements:

"(I) That the services of the petitioner has been terminated vide order dated 22.02.2011 (Annexure-4 to the writ application) on the ground of non-possession of OBC Certificate in the Central list and the impugned order of termination is in consonance with Clause IV of the offer of appointment dated 01.11.2010, wherein it has been clearly stated that the joining would not be considered if the caste certificate does not contain the caste name as per the list of Government of India. Admittedly, on the date of termination of order, the petitioner did not have the caste certificate of the Government of India, therefore, as per the terms and conditions of the offer of appointment, the services of the petitioner has been dispensed with which cannot be construed to be illegal or arbitrary.

(II) The contention advanced by the counsel for the petitioner is that the case of the petitioner stands on the same footing like that of Jitu Prasad, whose termination order has been passed by the Hon"ble High Court of Madhya Pradesh at Jabbalpur in W.P.(S) No. 6440 of 2011 vide order dated 06.12.2012. Since, the said Jitu Prasad also belongs to Roniyar (Bania) caste as that of petitioner, and as per doctrine of parity, the petitioner is covered by the decisions of the said Jitu Prasad. As per reply affidavit dated 03.03.2015 filed on behalf of respondent Nos. 7 and 8 i.e. NCBC to the third supplementary affidavit of the petitioner, wherein it has been submitted that the caste notified for the State of Jharkhand is Roniyar and not Roniyar (Bania) and the same does not appear in the State of Madhya Pradesh and the caste Roniyar is not included in the State of Jharkhand or Madhya Pradesh at any point of time. Therefore, as per the terms and conditions of the offer of appointment, the respondents have terminated the services of the petitioner for not possessing the caste certificate of Backward Classes under Central list, the case of the petitioner is not covered by the aforesaid decisions. Therefore, the question of granting benefit to the petitioner on the ground of parity is not legally sustainable.

(III) Admittedly, while issuing the offer of appointment dated 01.11.2010, wherein it was mentioned in Clause 9 (III) that the appointment of the petitioner is provisional and is subject to the community certificate being verified through the proper channels, and if the verification reveals that your claim belonging to

other backward classes is false, then her services will be terminated without assigning any further reason.

(IV) Moreover, as per Annexure-1 to the writ petition, the certificate issued by the State Government in which the petitioner belongs to Roniyar (Baniya) whereas in the affidavit dated 03.03.2015, the Ministry of Social Justice and Empowerment, vide resolution dated 08.12.2011 (Annexure-R-A/1) the name of Roniyar has been mentioned and not Roniyar (Baniya) even otherwise also the petitioner cannot take the benefit of resolution dated 08.12.2011, since she belongs to Roniyar (Baniya) and not Roniyar as per Annexure-1 to the writ application."

12. On cumulative effect of the facts and reasons stated in the foregoing paragraphs, there is absolutely no infirmity or illegality in the impugned order of termination dated 22.02.2011, vide Annexure-4 of the writ application, passed by the Deputy General Manager (Human Resources) IDBI Bank Ltd., Mumbai. Accordingly, the impugned order of termination, vide Annexur-4 does not warrant any interference by this Court.

13. Accordingly, the writ petition is dismissed being devoid of merit.