

(2012) 01 AHC CK 0531
In the Allahabad High Court
Case No : Writ - A No. 26759 of 2010

Rajesh Kumar Meena

APPELLANT

Vs

Chairman, Central Recruitment Committee and Others

RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 311
Penal Code, 1860 (IPC) — Section 420, 468, 471

Citation : (2012) 01 AHC CK 0531

Hon'ble Judges : Pradeep Kumar Singh Baghel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Pradeep Kumar Singh Baghel, J.—The petitioner has filed the present writ petition for the following relief:

i)Issue a writ, order or direction in the nature of mandamus directing the respondents to declare the result of the petitioner of selection for the post of Sub Inspector Railway Protection Force held in pursuance of the advertisement no. 02/07.

ii)Issue a writ, order or direction in the nature of mandamus directing the respondents to appoint the petitioner on the post of Sub Inspector Railway Protection Force after due training if he is declared successful in the result of the selection.

iii)Issue a writ, order or direction in the nature of mandamus directing the respondent to decide the claim pending vide representation dated 2.7.2009 (annexure-no.8 to this writ petition).

iv)Issue any other writ order or direction in favour of the petitioner which this Hon"ble Court may deem fit and proper in the circumstances of the case.

2. A perusal of the record reveals that and advertisement No.2 of 2007 was

issued by the Railway Protection Force Department inviting application for the post of Sub.Inspector R.P.F./R.P.S.F. In pursuance of the said advertisement the petitioner made an application and he appeared in the examination. He was found successful and was called to face the Interview Board. However, on verification of his Caste Certificate it was found to be fabricated and forged. On 28.3.2009 a First Information Report was lodged against the petitioner u/s 420,468,471 IPC.

3. This Court granted time to file counter affidavit to the respondents. Sri Govind Saran learned counsel for the respondent has filed short counter affidavit. A copy of the counter affidavit has been served on learned counsel for the petitioner on 13.5.2010. No rejoinder affidavit is on record. In the counter affidavit it is stated that the respondents have verified the Caste Certificate of the petitioner from the District Magistrate, Meerut and the District Magistrate, Meerut on enquiry found that the petitioner has submitted a forged Caste Certificate of the Schedule Tribe. The District Magistrate had sought information from the Central Recruitment Committee and it was found that the Certificate was not issued from the authority concerned. On 19.1.2010 a charge sheet has also been issued to the petitioner and he has been found guilty for using the fabricated document. However, the Disciplinary Authority taking sympathetic view has awarded minor punishment. A copy of the said order has been annexed as Annexure-7 to the short counter affidavit.

4. The Supreme Court in the matter of Caste Certificate has taken a very serious view in the case of Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir and Others, . The relevant paragraphs of the said judgment is being quoted herein below:-

Similarly, the plea regarding rendering of services for a long period has been considered and rejected in a series of decisions of this Court and we deem it unnecessary to launch on exhaustive dissertation on principles in this context. It would suffice to state that except in a few decisions, where the admission/appointment was not cancelled because of peculiar factual matrix obtaining therein, the consensus of judicial opinion is that equity, sympathy or generosity has no place where the original appointment rests on a false caste certificate. A person who enters the service by producing a false caste certificate and obtains appointment for the post meant for a Scheduled Caste or Scheduled Tribe or OBC, as the case may be, deprives a genuine candidate falling in either of the said categories, of appointment to that post, does not deserve any sympathy or indulgence of this Court. He who comes to the Court with a claim based on falsity and deception cannot plead equity nor the Court would be justified to exercise equity jurisdiction in his favour.

Having considered the matter in the light of the afore-stated legal position, in our judgment, the decision of the High Court is untenable. As noted supra, the employee having accepted the finding of the Scrutiny Committee, holding that the caste certificate furnished by the employee was false, the very foundation of

her appointment vanished and her appointment was rendered illegal. Her conduct renders her unfit to be continued in service and must necessarily entail termination of her service. Under these circumstances, there is absolutely no justification for her claim in respect of the post merely on the ground that she had worked on the post for over twenty years. The post was meant for a reserved candidate but she usurped the same by misrepresentation and deception. In our opinion, the fact that caste certificate was referred to the Scrutiny Committee for verification after ten years of her joining the service and a long time was taken by the Scrutiny Committee to verify the same is of no consequence inasmuch as delay on both the counts does not validate the caste certificate and the consequent illegal appointment. We are also unable to persuade ourselves to agree with learned counsel for the employee that in the absence of any finding of fraud having been played by the employee, the order of the High Court is equitable and should not be interfered with. As noted above, the selection of the employee was conceived in deceit and, therefore, could not be saved by equitable considerations." Similar view has been taken by the Supreme Court in *R. Vishwanatha Pillai Vs. State of Kerala and Others*, . The relevant paragraph is being quoted herein below:-

This apart, the appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no appointment in the eyes of law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under the Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India.

5. In *Bank of India and another v. Avinash D. Mandivikar and others* reported (2205) 7 SCC 690 the Supreme Court has taken the similar view. The relevant paragraph is being quoted herein below:- "Respondent no.1-employee obtained appointment in the service on the basis that he belonged to Scheduled Tribe. When the clear finding of the Scrutiny Committee is that he did not belong to Scheduled Tribe, the very foundation of his appointment collapses and his appointment is no appointment in the eyes of law. There is absolutely no justification for his claim in respect of post he usurped, as the same was meant for reserved candidate." In view of the aforesaid facts and circumstances the petitioner is not entitled for any relief under Article 226 of the Constitution of India.

6. The writ petition is dismissed accordingly.

7. No order as to costs.