
(2015) 05 TP CK 0039
In the Tripura High Court
Case No : Writ Petition (C) No. 323 of 2008

Ramendra Chandra Sarkar	Vs	APPELLANT
State of Tripura and Others		RESPONDENT

Date of Decision : 06-05-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) LabIC 2629

Hon'ble Judges : Deepak Gupta, C.J;S.C. Das, J

Bench : Division Bench

Advocate : P. Roy Barman, N. Majumder, B. Dutta and S. Bhattacharjee, for the Appellant; B.C. Das, Advocate General, J. Majumder and S. Chakraborty, Advocates for the Respondent

Final Decision : Disposed off

Judgement

1. By means of this petition the petitioner has challenged the memorandum No. F.6(4)-PWD(E)/99 dated 26.09.2008 whereby he has been terminated from service on the ground that his scheduled caste certificate was cancelled by the State Level Scrutiny Committee. The undisputed facts are that the petitioner was appointed as Lower Division Clerk (LDC) on 09.09.1987. He did not obtain appointment as a scheduled caste candidate. However, after he joined the service he filed a certificate showing that he was a member of the scheduled caste and therefore, entry was made in the service book showing that he belongs to the scheduled caste. Thereafter, the petitioner made a prayer to the respondents on 20th November, 1996 praying that he does not want to avail benefit being extended to ST/SC community candidates in Government service and he may be treated like a general category. This letter was handed over and received by the department on 20th November, 1996. This fact is not disputed. It is also not disputed that the petitioner never obtained any benefit of being a member of the Scheduled Caste or Scheduled Tribe community.

2. Despite the petitioner having made the statement in the year 1996, the

Inquiring Officer of the Vigilance Cell issued notice to the petitioner on 1st January, 2005 as to why his scheduled caste certificate be not cancelled. The petitioner admitted that he does not belong to the schedule caste category and did not object to his certificate being cancelled. He, however, pointed out that he had never taken benefit of being a member of the scheduled caste and even in the seniority list issued on 14.07.2008 his name was shown in the general category. The services of the petitioner were terminated vide order 26th September, 2008 which is impugned in this petition.

3. This Court normally has no sympathy with persons who do not belong to the scheduled caste but masquerade as such and obtain employment claiming to be members of the scheduled caste community. However, the State also must be fair and must treat all the persons equally. There cannot be two sets of standards for similarly situated employees. We had asked the Chief Secretary of the State to file an affidavit and from the affidavit we find that the State has not been following a uniform policy while imposing penalty. In respect of the certificate surrendered up to 14.12.2009 we find that in some cases annual increment was withheld, in some cases no action has been taken till date, in some cases reduction to lower stage in case of promotion has been ordered, in some cases proceedings have been dropped and in hardly one or two cases the persons has been dismissed from service.

4. Equality is guaranteed to all under Article 14 of the Constitution. The State cannot have a policy of pick and choose. When all these employees are similarly situated viz. that they have obtained employment by giving false scheduled caste or scheduled tribe certificates, we see no reason why different standards should apply. The State is expected to be a model employer. The State is expected to treat all its employees equally. The affidavit of the Chief Secretary reflects a sorry state of affairs where the action taken by the Government varies from no action being taken i.e. the employee continues to be in service till his retirement, minor penalties being imposed, major penalties other than termination from service being imposed and in rare cases like the present one imposition of order of termination from service has been passed.

5. It is argued on behalf of the State that since the petitioner had not surrendered his caste certificate termination must follow. We are not in agreement with the submission. Much prior to the notification in question the petitioner had told the department that he does not want to get benefit of being a scheduled caste. He has not used the certificate. Therefore, he was not using the certificate in any manner. It virtually amounted to surrender of the certificate.

6. It may be pointed out that in W.P. (C) No. 66 of 2014 (Dr. Bishnupada Biswas v. The State of Tripura and three others) decided on 25.02.2015 this Court had noticed that various doctors had obtained employment by furnishing fake caste certificate but no action was taken against them. Some were only warned and some who had obtained the benefit of promotion on the ground that they belong to the scheduled caste were reverted to the lower post. In that case also we had

set aside the termination of the petitioner.

7. We, therefore, allow the writ petition and quash the memorandum No. F.6(4)-PWD(E)/99 dated 26.09.2008. Petition is disposed of in the aforesaid terms. No order as to costs.