
(2015) 07 TP CK 0077
In the Tripura High Court
Case No : WP(C) 12 and 57 of 2012

Ratan Ray

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 15-07-2015

Acts Referred:

Citation : (2015) LabIC 4561

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

Bench : Division Bench

Advocate : B. Das, Senior Advocate and D. Chakraborty, for the Appellant; S. Deb, S. Dutta, Advocate and A. Roy Barman, CGC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, J—These two petitions have been filed by the petitioner whereby he has challenged the cancellation of a Scheduled Caste Certificate and also the termination of his services.

2. Admitted facts are that the petitioner obtained a certificate showing that he was a member of a Scheduled Caste i.e. the "Mahishya Das" community. This certificate was granted in his favour on 12th June, 1986 when he was a minor student. Thereafter the petitioner obtained B.Sc. Degree from Calcutta University and applied for a job with the Meteorology Department under the Union of India. It is not disputed that he obtained his job against a post reserved for the Scheduled Caste and by relying upon this certificate which shows him to be a member of the Scheduled Caste i.e. the "Mahishya Das" community (Annexure-A to the writ petition). A letter of appointment was issued to the petitioner on 19.11.1997 and he accordingly joined service.

3. It appears that somebody complained against the petitioner that he is not a member of the Scheduled Caste and had obtained the certificate by misrepresenting facts. The Sub Divisional Magistrate, Sonamura, West Tripura who had granted the certificate issued show cause notice to the petitioner on

04.10.2002 asking him to show cause why his Scheduled Caste Certificate should not be cancelled in terms of the Tripura Scheduled Castes and Scheduled Tribes Reservation Act 1991 and the Rules framed there under. In response to the notice the petitioner appeared and in the order of cancellation it is recorded that he confessed that he does not belong to the "Mahishya Das" community but he belongs to the "Baruijibi" community which is not recognized as a Scheduled Caste. This order was passed on 10.04.2003 but the petitioner did not challenge this order. The explanation given by the petitioner is that he was advised that many other persons had challenged similar orders and therefore he did not challenge the order. We are not at all in agreement with the submission. Any person whose scheduled caste certificate is cancelled has a right to challenge the same. This is an individual right which is not dependent on a writ petition being filed by any other persons.

4. Earlier the view of the Gauhati High Court was that this cancellation order could only be passed by the State Level Scrutiny Committee but a Division Bench of this Court has now clearly held that both the State Level Scrutiny Committee as well as the authority which issued the certificate both have the right to cancel the order. In any event this order has been cancelled mainly because the petitioner himself stated before the issuing authority that he was not a member of the Scheduled Caste but a member of the "Baruijibi" community. This fact has not been disputed by the petitioner even now.

5. Thereafter the petitioner kept quiet and only in the year 2010 the employer came to know that the petitioner's Scheduled Caste Certificate has been cancelled and a notice was issued by the employer to the petitioner and at this stage the petitioner sent the following letter to the employer:

"To

The Dy. Director General of Meteorology, Regional Meteorological Centre, Alipore, Kolkata-27.

(Through proper channel)

Sub: Submission of letter of cancellation of SC certificate.

Sir,

With due respect, I beg to state that, I have secured the SC certificate in 1986 issued by Govt. of Tripura vide order No. 585/SDO/SNM/TW/85 dt. 12.06.1986. But after long time, it was cancelled vide order No-166-75/F. 9(I)-Vol-2/SDM/SNM/TW/SCW/2002-03 dt. 10.04.02. I already submitted my original SC certificate to the authority on 24/12/2002.

Now, I, myself accept the apology and forgive me for the non-submit of this cancellation letter issued by Govt. in due time to my office due to my own negligency.

Now I am submitting the cancellation letter of SC certificate and requesting you

to consider me as a general candidate.

I have the 12(twelve) members in all in my family including parents, wife, daughter, brothers and sisters. All are dependent on me and my service. No one is in my family a serviceman except myself. So, kindly consider my case very sympathetically and pardon me.

Thanking you Sir,

Yours faithfully, Ratan Ray (RATAN RAY) S.A.

Dt:- 05/04/2010 M.C. Agartala

Encl: 1) Letter of cancellation of SC-certificate. 2) 9 xerox copy of SC-certificate(was lying with me)"

6. By this letter the petitioner has told his employer that his Scheduled Caste Certificate was cancelled vide order dated 10.04.2003 and that he had surrendered his Scheduled Caste certificate to the authority on 24.12.2002. He has tendered an unqualified apology and has sought leniency on the ground that he has 12 family members. It is thus apparent that the petitioner was not a member of the Scheduled Caste community and he has obtained a false certificate. Therefore, we cannot agree with the petitioner that his certificate was wrongly cancelled.

7. Coming to the second petition relating to the termination of his services, Mr. B. Das, learned Sr. counsel appearing on behalf of the petitioner relied upon the case of Dattu Thakur Vs. State of Maharashtra and Others, AIR 2012 SC 360 : (2011) 13 SCALE 484 : (2012) 1 SCC 549 : (2012) AIRSCW 203 and submitted that the benefit which has been given to a person should not be withdrawn after a long time. That was not a case of benefits being withdrawn because in that case the petitioner had obtained the BDS degree after getting the medical certificate and that the Apex Court held that the BDS degree cannot be cancelled but it was made clear that from that date onward the petitioner would not be entitled to any other benefit.

8. In this case the petitioner misrepresenting himself obtained a job as a Scheduled Caste candidate. He has served the department for 14 years and has received salary which he was not entitled to. That benefit cannot be taken back from him. Therefore, we cannot give him any further benefit.

9. In this view of the matter, both the petitions are accordingly dismissed. No costs.