

(1994) 02 KL CK 0021
In the High Court Of Kerala
Case No : O.P. No. 1676 of 1990-Y

S. Rajendran

APPELLANT

Vs

Asst. General Manager, State Bank of Travancore and Others

RESPONDENT

Date of Decision : 07-02-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 2

Citation : (1995) 1 LLJ 650

Hon'ble Judges : K.J. Joseph, J

Bench : Single Bench

Advocate : B. Krishnamoni and Romy Chacko, for the Appellant; K. Thankappan, G.P., for the Respondent

Final Decision : Dismissed

Judgement

K.J. Joseph, J.—The petitioner was working as a Clerk in the State Bank of Travancore, Chcnithala Branch, at Mavclikkara. He claims that he belongs to the Konda Reddy Community, a recognised Scheduled Tribe in the State of Kerala. The Regional Recruitment Board State Bank Group. Madras Circle had invited applications as per notification dated August 12, 1982 for the post of clerks in the State Bank of India and its associate banks in which the State Bank of Travancore is also one of the constituents. The above posts were exclusively reserved for Scheduled Tribe candidates. The petitioner also submitted an application pursuant to the said recruitment. Along with the application, he had produced Ext. P1 Certificate No. C.683/78 dated July 10, 1978 stated to have been issued by the Head Quarters Deputy Tashildar, Nanguneri stating that the petitioner belongs to Scheduled Tribe of Konda Reddy Community. The petitioner was called for an interview on the basis of the results of the written test conducted by the Board as per Ext. P2 communication. The date of interview was fixed was on November 26, 1982, and the petitioner was directed to produce the enclosed bio-data form duly was filled in duplicate, the originals of all certificates, marksheets, testimonials etc. in addition to the Community Certificate in original.

It was also specifically stated that the Community Certificate should be obtained in the enclosed form from the Tashildar of his native Taluk. He was further informed that in case he belongs to Konda Reddy community of Tamil Nadu State, he should produce the community certificate from the Revenue Divisional Officer of his native Division. It was further informed that if the petitioner is not in a position to produce the community certificate, he would not be permitted to appear for the interview, scheduled to commence on November 26, 1982.

2. It is the case of the petitioner that on receipt of Ext. P2 communication, his father one P.Sub-barayalu had submitted an application Ext.P4 before the Sub-Collector, Cheranmahadevi requesting the Sub-Collector to issue a caste certificate in the prescribed form furnished by the bank duly certified by the head office to the effect that his son, the petitioner, belongs to Konda Reddy Scheduled Tribe community in order to help him to join the service of the bank. The petitioner's father also reiterated that he belongs to the Konda Reddy community and produced Ext. P1 certificate also before that officer.

3. In the light of the application submitted by the petitioner, Ext. P3 certificate in the prescribed form is stated to have been issued by the Revenue Divisional Officer, Cheranmahadevi on November 25, 1982, wherein it is certified that the petitioner, a native of Samugarangapu-ram Village, Tirunelveli District, Cheranmahadevi Division of the State of Tamil Nadu belongs to konda Reddy Tribe, which is recognised as a Scheduled Tribe under the Constitution (Scheduled Tribes) Order 1950. It is also seen certified that the petitioner and his family ordinarily reside in the village/town Shylamandir, Pallithottam, of Quilon District of the State of Kerala. It is the further case of the petitioner that with this certificate obtained from the Revenue Divisional Officer of Cheranmahadevi in the prescribed form, he appeared in the interview and on the basis of the said interview, Ext.P4 order of appointment was issued to him dated April 21, 1983, by the first respondent Assistant General Manager, State Bank of Travancore, Trivandrum prescribing the terms and conditions of his appointment and subject to production of the following documents:

(a) certificate in original evidencing date of birth and academic qualification;

(b) to (h).....

(i) a caste certificate in the form attached by one of the designated authorities mentioned in the format (for Scheduled Caste/Scheduled Tribe candidates only)

(j) An undertaking to the effect that the facts stated/information furnished by you in the staff record sheet, attestation form or declaration, etc., are true and correct and that any concealment or false declaration would amount to a fraud rendering you liable for any punishment including dismissal.

The order of appointment specifically stipulates in para 4 that in case of any of the information given by the candidate in the application form and other declarations furnished by him turns out to be false, he would be liable for

discharge from the bank's service. If after verification of his claims of belonging to Scheduled Caste/Scheduled Tribe, as the case may be, are found to be false, his services are liable to be terminated without notice.

4. Petitioner was therefore directed to produce Ext. P4 memo along with all the certificates mentioned therein before the Manager at Ven-ganoor Branch (Trivandrum District) to which he was posted and further directed to inform whether or not he accepts the offer of appointment. In case he accepts the offer of appointment on the terms stated, he should return the duplicate copy of Ext. P4 memo duly signed by him to the Manager of the above branch, with a declaration as to whether he is related to any of the Directors of the bank.

5. It is the case of the petitioner that thereafter the petitioner has produced Ext. P4 memo along with all his certificates mentioned in Ext. P4 and the caste certificate obtained by him from the Addl. Chief Judicial Magistrate evidenced by Ext. P5 and he had joined in the service of the bank on May 5, 1983. Ever since that date, the petitioner had continued in the service of the State Bank of Travancore till he was served with Ext. P6 show cause notice dated December 4, 1989 and subsequently till passing of Ext. P13 order.

6. In the meantime, having entertained a doubt about the community certificate issued in favour of the petitioner, the bank has sent a letter to the District Collector, Tirunelveli on March 11, 1989 enquiring about the correctness of Ext. P3 certificate produced by the petitioner regarding the community to which he belongs from the Revenue Divisional Officer, Cheranmahadevi in Tirunelveli District. The matter was enquired into by the District Collector the 4th respondent herein with the Sub-Collector, Cheranmahadevi. The Sub Collector on verification of the records sent a demi-official letter, D.O. Dis 5153/89 dated April 1, 1989 intimating the District Collector that Ext. P3 community certificate said to have been issued by the Revenue Divisional Officer, Cheranmahadevi on November 25, 1982 in favour of the petitioner was not actually issued by the Revenue Divisional Officer, Cheranmahadevi. The Collector also informed the bank as per his communication dated April 28, 1989 that it is a bogus certificate. He further requested the bank to initiate necessary criminal action against the petitioner for having prepared the bogus community certificate. The letter of the Collector dated April 28, 1989 is produced as Ext. P. 16 in the case.

7. The charges levelled in Ext. P6 show cause notice are as follows: (1) the community certificate, Ext. P3 dated November 25, 1982 purported to have been issued by the Revenue Divisional Officer, Cheranmahadevi Division was a bogus certificate. (2) The District Collector, Tirunelveli has reported "*" that the Revenue Divisional Officer, Cheranmahadevi had not issued Ext. P. 3 certificate. (3) The false declaration had been made by the petitioner for employment in the bank to the effect that he belongs to the Scheduled Tribe Konda Reddy community. (4) The petitioner secured employment in the service of the bank as Clerk/Cashier based on the above community certificate.

8. To substantiate the above charges, the bank had referred to and relied upon the letter of the District Collector, Tirunelveli dated April 28, 1989 and also the reports obtained from the Headmaster, Government Boys High School, Mavelikkara, Headmaster, St. Alosious High School, Edathua, the Principal, St. Alosious College, Edathua and the Principal, Sree Narayana College, Quilon where the petitioner studied and continued his education and in all these school records, the community of the petitioner is shown as Hindu Rediar-other Backward Community of Rediars and not as Konda Reddy. According to the memo of charges, the petitioner had produced a false declaration and produced a record sheet filled up by him at the time of joining the duty. Immediately on receipt of Ext. P6 show cause notice, the petitioner filed his explanation to the said show cause notice as per Ext. P7 dated December 16, 1989, wherein he had stated that Ext. P3 certificate was received personally by his father and his father still believes that it is a genuine one and therefore he refuted the charge of producing bogus certificate. Therefore, he requested extension of 20 days time for submitting a detailed explanation and to establish the genuineness of Ext. P3 community certificate produced by him. This was followed by another letter addressed to the first respondent, wherein he has informed the first respondent that to find out the genuineness of the certificate produced by him, he wishes to have the copy of the letter received from the District Collector, Tirunelveli and the letter of the Revenue Divisional Officer, Cheranmahadevi referred to in Ext. P6 show cause notice. He has also submitted another representation dated December 23, 1989 as well as a further detailed representation evidenced by Ext. P. 10 dated December 28, 1989 wherein he had reiterated that he belongs to Konda Reddy community and the certificate Ext. P3 was issued by the Revenue Divisional Officer, Cheranmahadevi, the said certificate is not a bogus one and the school records alone cannot be considered as a sole criteria for deciding that he is not a member of the Konda Reddy community. He has also stated that the certificate Ext. P1 bearing No. C-683/78 dated July 10, 1978 was issued by the Deputy Tahsildar, Nan-guneri and the same also is valid. He further submitted that the bank has no authority or jurisdiction to decide the issue as to whether] he belongs to the Scheduled Tribe Konda Reddy Community or not and it is for the Central Government to decide such question as provided in paragraph 12.3 of Chapter XII of Brochure on Reservation for Scheduled Castes and Sched-; uled Tribes in Services, 7th Edition.

9. The petitioner had filed O.P. No. 14 of 1990 before this court, wherein he had questioned the validity of Ext. P6 show cause notice issued by the bank, and this court disposed of the said original petition as per its judgment dated January 2, 1990 with a direction to the petitioner to take up the matter with the first respondent bank itself after perusing the relevant documents by the petitioner. This Court also gave permission to the petitioner to file additional objection on or before January 22, 1990 and after receipt of additional objections, if any, this court directed the bank to consider the objections and peruse all the relevant records and pass final orders on the show cause notice. The prayer of the

petitioner for personal hearing was also considered by the learned single Judge and found that if the petitioner really and bona fide wants a hearing, an oral hearing, the bank will not deny the same to the petitioner. But this court made it clear that none of these steps shall be a pretext or cloak to prolong the proceedings. This court further directed to pass final order in the matter on or before February 10, 1990,

10. Not being satisfied with the said judgment, the petitioner had moved the High Court of Madras in W.P. No. 771 of 1990 questioning the validity of the action taken by the bank and in issuing Ext. P6 show cause notice. He has also prayed for a declaration against the bank to the effect that the bank has no jurisdiction to initiate disciplinary action unless and until the community certificate Ext. P1 dated July 10, 1978 of the Nanguneri Taluk Office is cancelled by the District Collector, Tirunelveli. But the High Court of Madras also did not accept the contention raised by the petitioner, but directed the petitioner to canvass the said contention also before the bank itself in the enquiry contemplated on the basis of Ext. P6 show cause notice.

11. The bank thereafter furnished the petitioner the materials on which they intend to rely upon and to substantiate their show cause notice and the bank informed the petitioner as per Ext. R2(a) communication dated January 4, 1990 wherein they have forwarded copies of the documents with the intention to rely upon in the proceedings.

12. Thereafter, the bank considered the entire matter in the light of the explanation submitted by the petitioner and in the light of the documents relied on by them and passed an order terminating the service of the petitioner on payment of the three months pay and allowances in lieu of three months' notice under para 522(1) of Sastri Award as per Ext. P13 order dated February 6, 1990.

13. The petitioner challenges the validity of Ext. P. 13 passed by the second respondent and prayed for quashing the said order and also the letter sent by the District Collector, Tirunelveli evidenced by Ext. P. 16. He also prays for issuance of a writ of mandamus or appropriate writ, directing the respondents 1 and 2 to reinstate the petitioner in the service of the State Bank of Travancore and further to declare that the petitioner belongs to the Scheduled Tribe - Konda Reddy's community and for consequential reliefs.

14. On receipt of notice on behalf of the second respondent, a detailed counter affidavit has been filed, wherein they have stated that the petitioner has produced a bogus and false certificate to obtain an employment in the bank by producing Ext. P3 certificate and by filing false declaration that he is a member of the Scheduled Tribes community. They also stated that on entertaining a suspicion regarding the genuineness of the certificate produced by the petitioner, the matter was referred to the District Collector, Tirunelveli. The said Collector enquired into the matter and took up the issue with the Sub Collector, Cheranmahadevi, who is alleged to have issued Ext. P3 certificate. After

obtaining reports from the said officer, the Collector as per Ext. P16 communication informed the bank that Ext. P3 certificate was never issued by the Revenue Divisional Officer, Cheranmahadevi and the same is a bogus certificate. The Collector also requested the bank to take necessary criminal action against the petitioner for having prepared the bogus community certificate. The second respondent further states in his counter affidavit that as directed by this court in the judgment in O.P. No. 14 of 1990, copies of documents, which the bank intends to rely upon to substantiate the allegations in the show cause notice were furnished to the petitioner as per Ext. R2(a) letter and they have considered the entire matter in the light of various documentary evidence and came to the conclusion that the certificate produced by the petitioner evidenced by Ext. P3 dated November 25, 1982 stating that he is a member of the Scheduled Tribe community is a bogus certificate and therefore the termination of the service of the petitioner as per Ext. P13 order is perfectly justified. They also submitted that there is no violation of any principles of natural justice and the services of the petitioner had been terminated after giving him sufficient opportunity and after considering the various documentary evidence and the explanations submitted by the petitioner evidenced by Exts. P7 to P12. It is also their case that in so far, the certificates produced by the petitioner are not community certificates, but only fabricated documents and in the light of the terms and conditions of service of the employee and in the light of the terms and conditions of the order of the appointment Ext. P4, the termination order is fully justified. The bank further stated in its counter affidavit that the petitioner is not entitled to invoke extraordinary jurisdiction of this court against the order of termination effected and the bank is entitled to terminate the service in accordance with the provisions in the Sastri Award, at any rate, the petitioner is not entitled to invoke the extraordinary jurisdiction of this court against the order of termination, since the petitioner is only a worker within the meaning of the said term in the Industrial Disputes Act and therefore the remedy, if any, of the petitioner is to move the Labour Court/Industrial Tribunal.

15. On behalf of the 4th respondent District Collector, Tirunelveli, a detailed counter affidavit has been filed in the case, wherein the District Collector states that on reference by the bank about the certificate stated to have been issued by the Revenue Divisional Officer, Cheranmahadevi dated November 25, 1982 in respect of the community of the petitioner, the Collector has taken up the matter with the Sub Collector, Cheranmahadevi and the Sub Collector had informed him that no such certificate had been issued by him. In the counter affidavit, the Collector further states that it is seen that the signature in Ext. P3 is not the signature of the Revenue Divisional Officer, who was working as Sub Collector, Cheranmahadevi on November 25, 1982. In the year 1982, in that office, no Revenue Divisional Officer was working and the designation of that officer was Sub Collector. But in the certificate, the signature is said to have been affixed is that of the Revenue Divisional Officer. He has also stated that it was one Thiru K. Alauden, I.A.S. was working as Sub Collector at Cheranmahadevi and during

the year 1982-83, there was no Officer designated as Revenue Divisional Officer at Cheranmahadevi. He has also stated in the counter affidavit that the Emblem (Gopuram mark seal) of the State Government of Tamil Nadu found in the certificate does not conform with that of the original emblem maintained in the office of the Sub Collector, Cher-anamahadevi. He further stated that there is no entry in the certificate register regarding the issuance of the alleged certificate dated November 25, 1982 and no serial number is also shown in the certificate. He has further stated that a person who resides in a particular State is expected to give a certificate to which State he belongs and even in a migration case, the fact should be clearly stated in the certificate showing that such person has migrated from one State to another. He has further stated that Ext. P3 certificate is a bogus and forged certificate and he further stated that he had informed these facts as per Ext. P16 communication to the Chief Vigilance Officer of the bank.

16. It is the further case of the 4th respondent the District Collector that Ext. P1 certificate dated July 10, 1988 also produced by the petitioner and referred to in the original petition is a bogus one. In the counter affidavit, the 4th respondent further stated that the certificate dated July 10, 1978 numbered as C.No. 683/78 does not tally with the register kept in the office of the Tahsildar, Nanguneri. Actually, certificate No. C-683/78 is dated July 11, 1978 and not July 10, 1978 and this is a certificate showing income-cum-community certificate issued to one Hariramakrishnan, son of Thiru Subbiah Konar, Sankanapuram, and he has produced a copy of that certificate in this case as Ext.R4A. Therefore, the 4th respondent also stated that the said certificate also is bogus. He has also stated that criminal action may be taken against the petitioner for producing bogus certificate before the bank for obtaining employment in the service of the bank.

17. I heard learned counsel appearing on behalf of the petitioner, as well as the learned counsel appearing on behalf of the bank and the 4th respondent. Admittedly, the petitioner secured an employment in the bank as a clerk/cashier on the basis of the certificate that he produced before the bank, wherein he claimed to be a member of Scheduled Tribe community, namely, Konda Reddy community. He has produced Ext.PI certificate along with his application submitted to the Banking Recruitment Board. Thereafter, he has produced Ext. P3 certificate at the time of interview before the first respondent. At the time of joining duty, he has produced another certificate evidenced by Ext. P5 at Venganoor branch. In all these certificates, the community of the petitioner is shown as Konda Reddy, a Scheduled Tribe community. The employer entertained a doubt regarding the correctness of the certificate produced by the petitioner and therefore they have referred the matter to the 4th respondent District Collector, Tirunelveli. On the basis of Ext.PI 6 letter sent by the District Collector, it was found that Ext.P3 certificate produced by the petitioner is a bogus certificate and no such certificate was issued by the Revenue Divisional Officer or the Sub Collector, Cheranamahadevi. It is in the light of the above information, Ext.P6 show cause notice was issued to the petitioner. I see absolutely no

irregularity or illegality in issuing Ext. P6 show cause notice to the petitioner giving him an opportunity to prove that the certificate produced by him is genuine. In this connection, it is pertinent to note that the petitioner had agreed to the terms and conditions of the order of appointment evidenced by Ext.P4, wherein he has specifically agreed to the rights of the employer to impose any punishment including dismissal in case it is found that the facts stated and the information furnished by him in the staff record sheet/attestation form or declarations etc. are found to be false. The relevant portion of Ext. P4 order of appointment is extracted below:-

"An undertaking to the effect that the facts stated/information furnished by you in the staff record sheet, attestation form or declarations, etc. are true and correct and that any concealment or false declaration would amount to a fraud rendering you liable for any punishment including dismissal".

18. Again in Clause (4) of Ext.P4, the petitioner has specifically agreed that if after verification of the claims made by him that he belongs to Scheduled Tribe community is found to be false, his services are liable to be terminated without notice. The relevant condition in Ext. P4(4) is extracted below;-

"Please note that in case of any of the information given by you in the application form and other declarations furnished by you turns out to be false, you will be liable for discharge from the bank's service. If after verification of your claims of belonging to SC/ST as the case may be are found to be false, your services are liable to be terminated without notice".

Therefore, the provisions contained in the order of appointment itself enables the first respondent bank to verify the correctness or othererwise the statement given by the petitioner in the declaration as well as the statement regarding his community. Therefore, the first respondent is fully justified in enquiring about the correctness of the certificate produced by the petitioner with the 4th respondent District Collector. I see absolutely no irregularity in the procedure adopted by the bank in getting information regarding the particulars and certificate produced by the petitioner.

19. Thereafter, the bank as per Ext. R2(a) communication dated January 4, 1990 furnished the copies of the documents, which they relied upon to proceed with the show cause notice and those documents are specifically stated in Ext. R2(a) communication addressed to the petitioner. Those documents are :-

- (1) Caste certificate dated November 25, 1982 shown to be issued by R.D.O., Cheran mahadevi Division.
- (2) Copy of the declaration that you are a member of Scheduled Tribe of Konda Reddis made by you to B.S.R.B.
- (3) Letter D. Dis (D2) 23907/89 dated April 28, 1989 from Collector, Thirunelveli.
- (4) Letters from Headmaster, Govt. High School for Boys, Mavelikkara, Head

Master, St. Aloysius High School, Edathua, Principal, Sree Narayana College, Quilon and Principal, St. Aloysius College, Edathua.

(5) Staff record sheet filled in by you on joining. The bank also gave photocopies of the above documents to the petitioner so as to enable him to know the basis on which the bank proceeds with the matter and the documents relied upon by the bank. Therefore, the bank has complied with the principles of natural justice in the matter of enquiry regarding the correctness of the certificate produced by the petitioner. The bank also relied upon the schools records in respect of the petitioner from the respective school and colleges where the petitioner had conducted his studies. Copies of those documents were also given to the petitioner apart from the letter of the Collector dated April 28, 1989. Admittedly, in the school records, the community of the petitioner is shown as Hindu Reddiar and not Konda Reddy. Hindu Reddiar is not included as a Scheduled Tribe community. The bank is therefore perfectly justified in issuing Ext. P6 show cause notice and passing the final order Ext. P13, wherein the services of the petitioner had been terminated. I see absolutely no illegality or irregularity in the action taken by the bank in terminating the services of the petitioner.

20. Admittedly, the petitioner had produced Copy of Ext. P1 certificate stated to have been issued by Deputy Tahsildar, Nanguneri before the Revenue Divisional Officer, Cheranmahadevi to enable that officer to issue Ext. P3 certificate. In the light of Ext. R4(a) certificate produced by the District Collector in this proceedings, I have no doubt in my mind to hold that the Collector was fully justified in stating that the certificate produced by the petitioner as Ext. P1 is a bogus certificate. The number of the said certificate No. C-683/78 dated July 10, 1978. There is no certificate dated July 10, 1978 issued by the Tahsildar, Nanguneri. As a matter of fact, certificate No. C- 683/78 is dated July 11, 1978, which is in respect of one Harinamkrishnan, S/o Subbiah Konar, Sanganapuram, showing his income- cum-community certificate. The first document with the petitioner relied on to prove his community itself is found to be bogus in the light of Ext. P4(a), the extract of the certificate register book of A-2 section of the Taluk office, Nanguneri for the year 1978. It is with this said certificate, he had applied to the Banking Recruitment Board. Thereafter, his father has produced the said certificate along with Ext. p14 application before the Sub Collector, Cheranmahadevi. The application Ext. p14 is addressed to the Sub Collector, Cheranmahadevi. But the certificate stated to have been issued evidenced by Ext. P3 is seen signed by the Revenue Divisional Officer, Cheranmahadevi, whereas there was no such designated officer in that office at that time as stated by the District Collector in his letter Ext. P16 as well as in the application submitted by the petitioner's father, which is addressed to the Sub Collector, Cheranmahadevi Ext. P14 and not the Revenue Divisional Officer, Cheranmahadevi. Thereafter, the petitioner had produced Ext. community certificate duly signed by the Addl. Chief Judicial Magistrate, Tirunelveli. As can be seen from that certificate, he had issued Ext. P5 certificate only on the basis of Ext. P3 certificate stated to have been issued by the Revenue Divisional

Officer, Cheranmahadevi and there is no other material before that officer to issue Ext. P5 certificate. Therefore, the petitioner is not entitled to get any benefit on the basis of Exts. P1, P3 and P5 community certificates, since those documents are proved to be bogus.

21. Admittedly, the petitioner is eligible to apply for the post only if he is a member of the Scheduled Tribe. It is only to prove that eligibility, the petitioner has produced Exts. P1, P3 and P5 certificates. In the light of the investigation made by the employer, it was found that Ext. P3 certificate was never issued either by the Sub Collector or by the Revenue Divisional Officer, Cheranmahadevi. The petitioner is therefore legally not entitled to get the benefit conferred on a Scheduled Tribe on the basis of the false documents produced by him before the appointing authority. I have absolutely no reason to disbelieve the counter affidavit filed by the Collector.

22. The 2nd respondent has also relied on the entries in the school and college certificates in respect of the petitioner, wherein also it is specifically shown that the petitioner is only a member of the Hindu Reddiar community and not a member of the Konda Reddy community. The argument of the learned counsel appearing on behalf of the petitioner is that the school records themselves may not be taken as the criterion for deciding the community of a Scheduled Tribe. Learned counsel placed reliance on a decision of this Court in O.P. 293 of 1976, wherein the learned Judge had stated that the entries in the school records alone are not conclusive to establish the community of a particular person. But it should be remembered that the school records also are reliable documents on which the authorities can place reliance since those particulars are furnished by the applicants themselves or their near relatives. Therefore, it cannot be said that the school records cannot be looked into or relied on for the purpose of deciding community of a particular individual.

The explanation offered by the petitioner that the entries in the school records are furnished by some of his relatives in Kerala without knowing the real facts was not accepted by the 2nd respondent Bank. In the light of the overwhelming other evidence in the case, it cannot be said that the 2nd respondent is not justified in rejecting the explanation offered by the petitioner in respect of the entries in the school register regarding his community. Therefore, in the light of the available evidence on record, copies of which were given to the petitioner, the employer bank has come to the conclusion that the community certificate produced by the petitioner cannot be relied on or acted upon. It is only on the basis of the said documents, the petitioner secured an employment in the bank. The findings of the 2nd respondent in Ext. P13 order regarding the nature of the certificate produced by the petitioner to prove his community cannot be considered as irrelevant or illegal or in any way perverse, which warrants interference by this court under Article 226 of the Constitution of India.

23. As found earlier in Ext. P4 order of appointment itself, the petitioner has agreed that if an verification of the claim made by the petitioner that he is a

member of the Scheduled Community is found to be false, the employer bank has absolute right to terminate the service of the petitioner even without notice. This specific condition had been agreed to by the petitioner. But, admittedly, notice was issued by the bank in respect of the nature of the information [hat they gathered and the documents which they intend to rely upon to come to the conclusion that the community certificate produced by the petitioner is not genuine, and the petitioner is well aware of those documents. Under such circumstances, the contention raised by the petitioner that he was not furnished with a copy of the letter of the Sub Collector No. D. Dis 5153/89 dated April 1, 1989 referred to in Ext. 16 letter of the Collector has no significance at all. The copies of documents, which the bank intended to rely upon, had been furnished to the petitioner, as can be seen from Ext. R2(a). They never relied upon the letter of the Sub Collector for coming to any conclusion whether Ext. P3 certificate is bogus or not. Therefore, there is no justification for the petitioner to complain that the management had referred to a document copy of which had not been furnished to the petitioner for terminating the service of the petitioner. As can be seen from Ext. P2(a) the management did not rely upon the said document, even though the same has been referred to by the Collector in his letter Ext. P16. In the light of the school records, the bank is perfectly justified in terminating the service of the petitioner, even though the petitioner was given an opportunity to prove that Ext. P3 certificate is a genuine certificate issued by a competent authority, the petitioner did not succeed in that attempt. In Ext. P7 letter sent by the petitioner addressed to the first respondent, he has specifically informed the bank that he requires some more time to go to his native place and village office to establish the genuineness of the said certificate. But the petitioner has not produced any evidence before the first respondent bank to prove the genuineness of the said certificate. Therefore, the petitioner cannot be allowed to say that Ext. P3 certificate is a genuine certificate in the nature of other documentary evidence before the bank. The finding arrived at by the first respondent bank that the certificate produced by the petitioner before the bank is a forged one is based on legal evidence collected by the bank with notice to the petitioner and therefore the same cannot be said as illegal or violation of principles of natural justice.

24. Admittedly, the petitioner is only a worker within the meaning of the said term used in the Industrial Disputes Act and in the Sastri Award. The petitioner is therefore entitled to challenge the correctness of the order of termination before any Labour Court or Industrial Tribunal, resorting to the provisions of Industrial Disputes Act and Sastri Award. Admittedly, the petitioner had not selected the said remedy, instead, he approached this court in proceedings under Articles 226 and 227 of the Constitution of India. I see absolutely no justification to exercise the discretionary remedy conferred on this court under Article 226 of the Constitution of India in respect of the order of termination of the service of the petitioner in this case. The petitioner has not produced any evidence before this court to show that he is a member of the Scheduled Tribe community, namely,

the Konda Reddy community. His claim to be a member of the said community was rightly rejected by the appointing authority; namely; the bank based on materials before them. I see no justification to interfere with the said findings arrived at by the appointing authority in this case in exercise of this court's jurisdiction under Article 226 of the Constitution of India.

25. Learned counsel appearing on behalf of the petitioner submitted before me that under paragraph 12.3 of Chapter 12 of Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Services, 7th Edition, the authority to decide the issue as to whether a person belong to a particular Scheduled Tribe community or not is on the Ministry of Welfare (Scheduled Caste and Scheduled Tribe), New Delhi and there is no such power of authority on me bank to decide the issue. Learned counsel therefore submits that the only course open to the bank was to refer the matter to the Government of India for their decision. I see absolutely no justification to accept the said contention based on paragraph 12.3 of Chapter 12 of Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Services. The dispute referred to therein can only be a bona fide dispute and not a dispute based on any forged document. In the light of the records relied upon by the bank, it cannot be said that Ext.P3 is a genuine certificate and there is any genuine dispute regarding the community to which the petitioner belongs, the petitioner is not entitled to get any relief in this proceedings in exercise of the extra- ordinary jurisdiction of this court. Since it was found that "the certificate produced by the petitioner for getting employment in the service of a bank is not a genuine certificate, but only a fabricated document and the so called documents, which were fraudulently fabricated, can very well be ignored by the authorities in deciding the question whether the petitioner should be allowed to continue in the service of the bank. I see no justification to interfere with the order P13.

26. The petitioner has produced Ext. P17 circular issued by the Government of Tamil Nadu wherein the procedure to be followed in cases when the appointing authorities referred the community certificates issued by the Tahsildars or Revenue Divisional Officer to Collectors for verification was laid down. According to the petitioner, the said procedure was not followed by the 4th respondent collector, while issuing Ext. P16 letter. There is no substance in the argument. The procedure contemplates only when a certificate is issued by a competent authority and when a further verification of the community certificate is to be made and the genuiness of his claim is to be decided and not otherwise. Here, the question is whether any certificate itself was issued by any competent authority. Ext. P14 procedure never contemplates enquiry on the basis of any documents produced by any person claiming to be a community certificate. Since no certificate was issued by any competent authorities showing the community of the petitioner, petitioner cannot place any reliance on Ext.P17 directions issued by the Tamil Nadu Government.

27. Learned counsel for the petitioner also placed reliance on the decisions of the

Madras High Court in Writ Petition Nos.2249/79, 3164/79,4066/82 and Writ Petition Nos. 1235 & 1236 of 1983. In support of his contention that; before cancelling the certificate issued in favour of a Scheduled Tribe member, notice will have to be issued and he should be given an opportunity before cancellation of certificate. According to the learned counsel appearing for the petitioner, no such notice was issued for cancelling Exts. P1 and P3 certificates issued to him and in the absence of cancellation of those certificates by the Collector with notice to him, learned counsel submits that the order of termination of the service from the bank pursuant to Ext.P13 order is illegal and unjust. There is no substance in the above contention. In all the above cases, admittedly, a community certificate was issued by a competent authority and subsequently, it was found that the persons in whose favour those certificates were issued are not members of the Scheduled Tribe community. In some of the cases whether the community referred to in the certificate itself is a Scheduled Tribe community also was in dispute. Under such circumstances, learned Judges of the Madras High Court found that before cancellation of the community certificate issued to the petitioners therein by a competent authority, notice will have to be issued to: the parties concerned and only after cancellation of certificate by the competent authority, further action can be taken. But in this case, it was found by the appointing authority, namely, the first respondent that there is no certificate at all issued in favour of the petitioner in respect of his community. The documents produced by him as community certificate are false and forged and therefore the petitioner is not justified in placing any reliance on the decisions of the Madras High Court referred to above.

28. Since it was found that the certificate produced by the petitioner is not a community certificate issued by any competent authority, the termination of service of the petitioner from the post of clerk/cashier by the 2nd respondent is perfectly valid and legal. The contention raised by the counsel appearing on behalf of the bank that even if the termination of service of the petitioner is found to be not proper or illegal, the remedy available to the petitioner is only under the provisions of the Industrial Disputes Act and Sastri Award, which admittedly the petitioner did not pursue, is also fully justifiable on the facts and circumstance of this case.

29. The order of termination issued by the 2nd respondent as per ExtP 13 order is perfectly valid and legal. No interference is called for by this court in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India in this case and I refuse to interfere with the decision taken by the appointing authority in terminating the service of the petitioner as per Ext.P1 3 order. The above order is passed fully complying with the principles of natural justice. Even though this court in its judgment in O.P.No.14 of 1990 filed by the petitioner gave an opportunity for personal hearing to the petitioner, in case he earnestly and bona fide requires such an oral hearing , he did not even avail of any such opportunity before the 2nd respondent. He did not produce any documentary evidence before this court also to establish the genuineness of the community

certificates produced by him. In the light of the relevant entries in the school/ college records showing the community of the petitioner, the 2nd respondent was fully justified in coming to the conclusion that ExtP3 certificate is a forged and fabricated document. The petitioner has only an untenable contention that since the certificate was accepted and acted upon by the bank, thereafter the bank has no authority to terminate his service, without reference to the Government of India. I am unable to accept such a cantankerous contention raised by the petitioner. If such a contention is accepted in effect, the same would be giving a premium to those, who commit forgery and creating false documents and using the same for securing public appointments. There is no merit in the original petition and the same is dismissed with costs to the respondents.