



HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND NINETEEN
PRSENT
THE HONOURABLE SRI JUSTICE A V SESA SAI
WRIT PETITION NO: 450 OF 2012

Between:

1. Sri Revu Raju, S/o. Late Sri Appanna,
R/o. D.No. 36-95-105,
Babujinagar,
Kancharapalem Post,

...PETITIONER(S)

AND:

1. The Vice Admiral, Chief of Personnel,
Eastern Naval Command,
Visakhapatnam - 530 014
2. The F.O.C. in C., HQ. Eastern Naval Command,
Visakhapatnam - 530 014
3. The Material Superintendent, Material Organization,
Visakhapatnam - 530 014
4. The Central Government Industrial Tribunal-Cum-Labour Court
Hyderabad,
Camping at Visakhapatnam

...RESPONDENTS

Counsel for the Petitioner(s): TADDI NAGESWARA RAO

Counsel for the Respondents: B KRISHNA MOHAN (ASST SOL GEN AP)

The Court made the following: ORDER



THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.450 of 2012

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, praying for the following relief;

“to issue any writ order or direction more particularly one in the nature of writ of mandamus declaring the impugned award passed by the 4th respondent in L.C.No.134/2004 dt.24.02.2011 notified on 01.04.2011 and communicated on 16.09.2011 and also the order dt.29.01.2009 as illegal, arbitrary, capricious, by non application of mind, and suffering from jurisdictional errors which is based on the reports of the District Collector, Vizianagaram (M) L.Dis.2679/88 C7 dt.04.01.1989 and also the report of the District Collector Visakhapatnam (M) L.Dis.158/1990/C7,dt.16.10.1990 which are submitted behind back of the petitioner, without jurisdiction to the M.R.O., S.Kota and M.R.O., Kothavalasa to submit the reports to the respective District Collectors under rule 9 of A.P.(S.C.,S.T. and B.C.) issue of community, Nativity and date of birth rules 1997 and consequently to set aside the said award and order of the 4th respondent and consequently to direct the respondents 1 to 3 to reinstate the petitioner into service with all attendant benefits or to pass any other order or orders.”

2. According to the petitioner, he was initially appointed as an unskilled labourer in the office of the 3rd respondent and his service was regularised on 02.04.1979. On the basis of a complaint made by the Andhra Pradesh ST Employees'



Association, Visakhapatnam Branch, the Disciplinary Authority addressed a letter to the Revenue authorities to furnish information as to the caste status of the petitioner herein. The District Collector, on the basis of the information furnished by the Mandal Revenue Officer, S.Kota, addressed a letter bearing Dis.No.2679/88 C7 dated 04.01.1989 to the respondent No.3 which reads as under;

“Please see the references 1st cited and 2nd cited.

The Scheduled Tribe Caste Certificate said to have been issued to Sri Revu Raju by the then Tahsildar, S.Kota, sent through Collector, Visakhapatnam has been got verified by Mandal Revenue Officer, S.Kota.

In this connection, I have to inform you that there is vast variation between the signature of the Tahsildar on the Caste Certificate produced and in the office records available at Mandal Revenue Officer's Office, S.Kota. the said caste certificate was also found to have been not registered in the issue register during the year 1976-77 and the office copy of the certificate also is not available for verification.

In view of the above facts, the issue of certificate could not be confirmed. The Caste Certificate sent for verification is returned herewith.”

3. Subsequently, on the basis of the said information, the Disciplinary Authority issued a charge-sheet on 30th day of January, 1992, framing the following two (2) charges.



ARTICLE-I

1. That the said Shri R.Raju, T.No.408, while functioning as Unskilled Labourer in Materials Organisation, Visakhapatnam did submit a forged ST Certificate bearing No.3549/76 dated 08 Dec 76 purported to have been issued by the then Tahsildar, S.Kota, in support of his social status claim of “Konda Kapu” “ST” to derive the benefits against reserved vacancy.
2. Shri Raju, USL,T.No.408 by his above act exhibited conduct unbecoming of a Government servant and thereby violated Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

1. Shri R.Raju, USLT.No.408, while functioning as unskilled Labourer in the aforesaid office did furnish false information at 9(b) of the Attestation form dated 09 Apr 79 as if he belongs to “Konda Kapu” “ST”, whereas in fact he did not belong to “Konda Kapu”.
2. Shri R.Raju, Unskilled Labour, T.No.408 by the above act exhibited conduct unbecoming of a Government servant and thereby violated Rule 3(1) (iii) of CCS (Conduct), Rules, 1964.
3. According to the statements of imputation of misconduct or misbehaviour, the DGS Shri R.Raju, fully knowing its fakement produced the ST Caste certificate to derive its benefits against “Reserved Category”. The DGS Shri R.Raju, USL, T.No.408 has declared his caste falsely as “Konda Kapu” (Scheduled Tribe) at column 9(b) of attestation form.”



4. Thereafter, an Enquiry Officer was appointed and he submitted the report on 28.07.2001, holding that the charges stood proved. Thereafter, the Vice Admiral, Flag Officer Commanding-in-Chief, Visakhapatnam-respondent No.1 passed an order vide CE/9101/19 dated 06.03.2002, imposing penalty of "Removal of the petitioner from service". The Petitioner herein approached the Central Government Industrial Tribunal-cum-Labour Court, at Hyderabad by way of filing Industrial Dispute L.C.No.134/ 2004, assailing the validity and legal sustainability of said order dated 06.03.2002. The Tribunal by way of an order dated 29.01.2009, answered the said Industrial Dispute, holding that the domestic enquiry conducted by the Management against the petitioner herein was legal and valid and there was no illegality or irregularity in the enquiry proceedings. As against the said order, the petitioner herein filed W.P.No.7991 of 2009 before the Composite High Court, Andhra Pradesh and the said Writ Petition was disposed of on 20th day of April, 2009 with the following order;

"By the impugned order, the Tribunal rejected the claim of the petitioner that the domestic enquiry was vitiated by violation of principles of natural justice and accordingly it held that the domestic enquiry was validly held. Though the learned counsel for the petitioner urged several contentions in support of the plea of the petitioner regarding the validity of the domestic enquiry, I am of the view that the petitioner can be permitted to raise all these contentions in the event an adverse award, on the merits of the case, is passed against him by the Tribunal,



because it is not appropriate for this Court to undertake a piecemeal adjudication of the issues when the industrial dispute is still pending before the Tribunal. Therefore, the writ petition is dismissed with liberty to the petitioner to raise all the contentions, which are raised in this writ petition, while questioning the final award, it if goes against him.”

5. Subsequently, the Tribunal passed an Award dated 24th day of February, 2011, dismissing the said Industrial Dispute raised by the petitioner herein, while upholding the enquiry conducted by the respondents.

6. In the above background, while contending that the orders passed by the Tribunal are highly illegal, arbitrary, capricious and a result of non application of mind, the present Writ Petition came to be filed in the month of January, 2012.

7. In response to the *Rule Nisi*, issued by this Court, a counter affidavit deposed by the 3rd respondent has been filed on behalf of the respondents in the direction of justifying the impugned action.

8. Heard Sri Taddi Nageswarao, learned counsel for the petitioner and Sri B.Krishna Mohan, learned Assistant Solicitor General of India for Union of India appearing on behalf of the respondents.

9. Learned counsel for the petitioner contends that the orders passed by the Tribunal, confirming the orders of removal passed by the Disciplinary Authority on the basis of report of Revenue authorities is highly erroneous, contrary to law, without jurisdiction, violative of Articles 14 and 21 of the



Constitution of India, besides being opposed to the very spirit and object of the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act') and the Rules framed thereunder. In elaboration, it is further strenuously contended by learned counsel for the petitioner that the Disciplinary Authority passed the order of removal dated 06.03.2002 simply on the basis of the report of the Revenue authorities. It is also the submission of the learned counsel for the petitioner that the report of the District Collector cannot be the basis for resorting to the impugned action of removal of the petitioner from service, as the said report was submitted by the District Collector without holding any enquiry after giving opportunity of being heard to the petitioner herein and without adhering to the mandatory and indispensable procedure contemplated under Section 5 of the Act read with Rule-9 of the Andhra Pradesh Scheduled Castes, Scheduled Tribes and Backward Classes - Issue of Community, Nativity and Date of Birth Certificates Rules, 1997.

10. On the contrary, it is vehemently contended by the learned Assistant Solicitor General of India, appearing for the respondents, reiterating the averments in the counter affidavit that there is absolutely no illegality, nor there exists any procedural infirmity, in impugned action and in the absence of the same, the impugned action, cannot be faulted and cannot be subjected to judicial scrutiny under Article 226 of the Constitution of India. It is the further submission of learned



Assistant Solicitor General that without assailing the orders of removal passed by the Disciplinary Authority, it is not open for the petitioner to maintain the Writ Petition. It is also the further submission of learned Assistant Solicitor that only after thorough enquiry, the District Collector submitted the report, basing on which the Disciplinary Authority passed the order of removal from service and that the respondents strictly adhered to the principles of natural justice.

11. In the above background, now the issue which this Court is called upon to answer in the present Writ Petition is;

“Whether the impugned action on the part of the respondent-authorities in removing the petitioner from service, as confirmed by the Tribunal, is sustainable and tenable and whether the same warrants any interference of this Court under Article 226 of the Constitution of India?”

12. There is absolutely no dispute with regard to the fact that the petitioner herein got into the employment in the year 1978. Obviously, on the basis of the complaint made by an association, the impugned action was initiated against the petitioner herein. Before framing charges against the petitioner, the Disciplinary Authority called for information from the Revenue authorities. The District Collector, on the basis of the report of Mandal Revenue Officer, S.Kota, Vizianagaram District, vide R.C.No.1377/88 dated 30.11.1988 addressed a letter to the 3rd respondent/Material Superintendent, Materials Organisation, Eastern Naval Command, Visakhapatnam, informing that there was variation between the signature of the Tahsildar on the Caste Certificate



produced and in the official records available. In fact, the said report furnished by the District Collector, Vizianagaram to the respondents formed the basis for the respondent-Disciplinary Authority to issue the charge-sheet. A reading of the material available on record discloses, in clear and unequivocal terms, that only on the basis of the report submitted by the District Collector, the Disciplinary Authority passed the order of removal of the petitioner from service.

13. In this context, it may appropriate to refer to the provisions of Section 5 of the Act. Section 5 of the Act reads as follows;

“Cancellation of the false Community Certificate: - (1) Where, before or after the commencement of this Act a person not belonging to any of the Scheduled Castes, Scheduled Tribes and Backward Classes has obtained a false Community Certificate to the effect that either himself or his children belongs to such Castes, Tribes or Classes, the District Collector may either suo motu or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving the person concerned an opportunity of making representation:

Provided that where an enquiry into the genuineness of a community certificate issued prior to the commencement of this Act has commenced and is pending at such commencement, the record thereof shall be transferred by the concerned Authority to the District Collector and he shall continue the



enquiry and conclude the same under this sub-section.

(2) The powers of the nature referred to in sub-section (1) may also be exercised by the Government.

14. It is very much evident from a reading of the above provision of law that it is mandatory and obligatory on the part of the District Collector to give opportunity of making representation to the person likely to be affected. Rule 9 of the Rules, notified vide G.O.Ms.No. 58, Social Welfare (J), dated 12.5.1997, stipulates an elaborate procedure which needs to be adhered to scrupulously and strictly while dealing with the fraudulent claims, if any.

15. In the instant case, the District Collector informed the respondents about the variation in signatures of the authority who is empowered to issue the Caste Certificate. Admittedly, the said conclusion was arrived at without being preceded by notice and opportunity of hearing to the petitioner herein. It is a settled and well established principle of law that when Statute directs a particular thing to be done in a particular manner, the same should be done in that manner alone. In the instant case, by completely giving go-by to the mandatory requirements of law as stipulated under the Act and the Rules framed thereunder, the District Collector came to a conclusion against the petitioner and the same formed the basis and foundation for the respondent-authorities for removing the petitioner from service.

16. The contention of the learned Assistant Solicitor General that the failure on the part of the petitioner herein in



questioning the order of removal dated.06.03.2002 is fatal, in the considered opinion of this Court, cannot be sustained in the eye of law, as the said proceedings were obviously were challenged in the Industrial Dispute raised by the petitioner herein and as the same merged in the Tribunal order.

17. For the aforesaid reasons, the Writ Petition is allowed setting aside the impugned Award passed by the respondent No.4 in L.C.No.134/2004 dt.24.02.2011 notified vide Notification dated 01.04.2011 and consequently the order of removal dated 06.03.2002 passed by the respondent No.3 vide CE/9101/19, is set aside, and consequently, the respondents herein are directed to reinstate the petitioner into service, if the petitioner is below the age of superannuation as on today. However, it is open for the respondents herein to proceed in accordance with law and keeping in view the observations made supra, if they are advised to do so, and if any such action is initiated, entire proceedings shall be completed within a period of 6 months from the date of receipt of copy of this order, and in the event of failure to do so, the petitioner herein shall be entitled to all the benefits of his service. There shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any pending in the Writ Petition, shall stand closed.

JUSTICE A.V. SETHA SAI

30th day of December, 2019.

Note: LR copy to be marked

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

+ WRIT PETITION No.450 OF 2012

% 30.12.2019

Between:

Revu Raju, S/o.late Appanna

Petitioner

And

The Vice Admiral, Chief of Personnel,
Eastern Naval Command, Visakhapatnam
& others

...Respondents

! Counsel for the Petitioner : Sri Taddi Nageswara Rao

^ Counsel for the Respondents : Sri B.Krishna Mohan,
Assistant Solicitor General of India

< Gist:

> Head Note:

? Cases referred:

Nil

This court made the following :