

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL No.8412 OF 2009

ASST G.M.&DIS.AUTHY.SYNDICATE BANK & ANRAPPELLANTS

VERSUS

ASHOK & ORS.RESPONDENTS

O R D E R

The respondent applied for appointment against the post of Clerk with the Syndicate Bank by seeking benefit of the fact that he belonged to the Halba, Scheduled Tribe. The candidature of the respondent was accepted. He was appointed as a Clerk on 21.03.1985. He, thereafter, came to be confirmed as such on 18.11.1985. The appellant i.e. the Syndicate Bank did not question the validity of the Caste Certificate produced by the respondent till 16.06.1998 when the respondent was, for the first time, called upon to submit the original documents for reference to the Caste Certificates Scrutiny Committee. It is apparent, that by the time he was called upon to respond the queries relating to his caste, he had already rendered service for more than 13 years with the appellant bank.

Despite the ambiguity of the Caste Certificate furnished by the respondent while seeking employment with the appellant, he came to be promoted against the post of Assistant Manager on 08.05.2001.

Dissatisfied with the response received from the respondent, the appellant-bank issued a chargesheet dated 06.11.2001, wherein the misconduct alleged against the respondent was, that in spite of demand to submit the original Caste Certificate, the respondent had not submitted the same. The respondent replied to the chargesheet on 29.11.2001 wherein he informed his employer that the original Caste Certificate had been lost and a police report had been filed by him.

Finding the reply of the respondent unsatisfactory, the Syndicate Bank terminated the services of the respondent, by an order dated 28.02.2003. The order of termination was assailed by the respondent before the High Court of Judicature at Bombay (Nagpur Bench) (hereinafter referred to as the 'High Court') by filing Writ Petition No.2507 of 2003. The High Court disposed of the aforesaid writ petition with the following order:

"The order dated 20.2.2003 passed by respondent nos.1 and 2 thereby terminating the services of the petitioner is quashed and set aside.

The respondent nos.1 and 2 are directed to reinstate the petitioner on the post of Assistant Manager within a period of one month from today.

The respondent Nos.1 and 2 are directed to re-submit the documents submitted to them by the petitioner to respondent No.3 the Scheduled Tribe Scrutiny Committee within a period of two months from today. On receipt of whatever documents submitted by the petitioner, the respondent No.3 shall verify the caste claim of the petitioner. It is made clear that respondent no.3 shall not insist for the original or duplicate Caste certificate.

If the respondent No.3 Committee validates the caste claim of the petitioner, he would be entitled to further benefits on the basis of his tribal claim.

If the respondent No.3-Committee invalidates the caste claim of the petitioner, he would not be entitled to any of the benefits in future as are available to the members of the Scheduled Tribe. However, invalidation of the caste claim by

the Caste Scrutiny Committee shall not be a ground for termination of services of the petitioner in view of the judgment of the Apex Court in the case of State of Maharashtra vs. Milind Katwarae (cited supra).

It is further made clear that in case the caste claim of the petitioner is invalidated, right of the petitioner to challenge the same would be protected.

Rule is accordingly made absolute in the aforesaid terms."

A perusal of the order passed by the High Court reveals that the High Court set aside the order of termination. The High Court further required the Scheduled Tribe Certificate Scrutiny Committee to verify the caste claim of the respondent. In its aforesaid direction, the High Court expressly directed that the appointment of the respondent with the Syndicate Bank would not be affected with the outcome of the Scheduled Tribe Certificate Scrutiny Committee. It was further clarified, that in case the caste claim made by the respondent was invalidated, the respondent would be entitled to assail the same in accordance with law.

During the course of hearing, learned counsel for the appellant, handed over to us, a xerox copy of the order dated 16.01.2007 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division, Nagpur. The same is taken on record and marked as 'Annexure A'. A perusal of 'Annexure A' reveals, that the Scheduled Tribe Certificate Scrutiny Committee having considered all the documents and facts had arrived at the conclusion, that the respondent did not belong to the Halba, Scheduled Tribe. Hence, the claim of the respondent as a member of the above tribe was invalidated. The caste certificate issued to him, was accordingly cancelled.

In view of the above factual position, learned counsel for the appellant vehemently contends, that the employment of the respondent with the Syndicate Bank was vitiated on account of fraud and is, therefore, liable to be set aside. It is the above contention of the learned counsel for the appellant, which has to be considered by us, especially in view of the directions issued by the High Court in the impugned order (which has been extracted hereinabove).

Insofar as the instant aspect of the matter is concerned, it is essential to point out, that a similar issue came to be examined by this Court in *Shalini vs. New English High Sch.Assn.& Ors.* (Civil Appeal No.10997 of 2013 @ SLP(C)No.2680 of 2010 decided on 12.12.2013). The issue which has been agitated before us was considered in the background of a Government Resolution dated 15.06.1995. The observations recorded in *Shalini* case (supra) by a Division Bench of this Court, are being extracted hereinbelow:

"In *Nimje* another Two-Judge Bench held that Government Resolution dated 15.6.1995 would continue to apply even after the passing of the 2000 Act so long as the appointment had taken place prior to 1995. There is, therefore, palpable wisdom in the Office Memorandum dated 10.8.2010 of the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training to the effect that "it has been decided that the persons belonging to the 'Halba Koshti/Koshti' caste who got appointment against vacancies reserved for the Scheduled Tribes on the basis of Scheduled Tribe certificates, issued to them by the competent authority, under the Constitution (Scheduled Tribes) Order, 1950 (as amended from time to time) relating to the State of Maharashtra and whose appointments had become final on or before 28.11.2000, shall not be affected. However, they shall not get any benefit of reservation after 28.11.2000."

Based on the Government Resolution dated 15.06.1995, this Court in

(Signed order is placed on the file)