

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2851 OF 2024
(ARISING OUT OF SLP(C) NO. 7707/2018)

VIJAYLAKSHMI

APPELLANT

VERSUS

THE STATE OF HIMACHAL PRADESH & ORS.

RESPONDENTS

WITH

W.P.(C) No. 266/2018

ORDER

CIVIL APPEAL No. 2851 OF 2024

1. Leave granted.
2. The appellant is aggrieved by the judgment and order dated 13th November, 2017, passed by the High Court of Himachal Pradesh at Shimla in CWP No.3310 of 2016, whereby the Writ Petition filed by her, praying *inter alia* for quashing of the order dated 1st January, 2015, passed by the respondent no.2- Naib Tehsildar, Holi, Distt-Chamba, Himachal Pradesh cancelling her Caste Certificate.
3. By the impugned order, the High Court noted that it is not in dispute that, the appellant did not belong to a Scheduled Tribe Category by birth but was married to a person belonging to the said category and therefore, she could not have gained the status of a person belonging to the scheduled tribe category. A person who does not belong to a scheduled caste/scheduled tribe category by

birth, cannot gain the status of that caste or tribe only by marrying a person belonging to the said category. As a result, the appellant's appointment to the post of a Primary Teacher in the respondent no.3- Kendriya Vidyalaya Sangathan, Dehradun under the reserved quota of Scheduled Tribe, was set aside on the respondent no.2 - Naib Tehsildar issuing a letter cancelling her the Scheduled Tribe certificate. Consequently, the Disciplinary Authority dismissed the appellant from service *vide* order dated 18th February, 2015. The appellant preferred an appeal against the said order, which came to be dismissed by the Appellate Authority *vide* Order dated 12th/14th September, 2016. The writ petition preferred by the appellant has also been dismissed by the impugned order.

4. Learned counsel for the appellant states that this is not a case where the appellant had fabricated the documents for obtaining a caste certificate. She had applied for a caste certificate after her marriage and the said certificate was issued by the Competent Authority in due course. It was only subsequently decided by the authorities that a person marrying into a Scheduled Caste Family/Scheduled Tribe category would not be entitled to claim a caste certificate if the said person, who is seeking such a certificate, does not belong to a scheduled caste/scheduled tribe category by birth.

5. A perusal of the records shows that it is not in dispute that the appellant was born in a Brahmin community and she got married to a person who belonged to the scheduled tribe category. It was on the strength of a caste certificate issued in her favour after her marriage declaring her as a person belonging to a

scheduled tribe category, that the appellant had applied for appointment to the post of a Primary Teacher under the quota reserved for the scheduled tribe category and she was so appointed on the said post on 3rd September, 1986.

6. Based on a complaint received by the respondent No. 3 – School regarding forged/false certificates being submitted by employees for obtaining jobs, verification of the records of the employees was undertaken by the Department and it was in the course of the said verification that it transpired that the appellant herein had submitted a scheduled tribe category certificate wherein she was described as the wife of a person belonging to the scheduled tribe category.

7. The appellant was directed to submit the correct scheduled tribe category certificate, which for obvious reasons, she could not submit. As a result, she was charge-sheeted and thereafter, the respondent no.2 – Naib Tehsildar issued an order cancelling the scheduled tribe category certificate issued in her favour. This was followed by the termination of her services in the respondent no.3 – School.

8. We may note that during all this time, the appellant had served in the respondent no.3 - School for the period extending over 29 years and on the work front, her career was flawless. The appellant could not be blamed for the situation as she had not submitted a false caste certificate to secure job for a post reserved for the scheduled tribe category. She had submitted a caste certificate obtained from the office of the respondent no.2 - Naib Tehsildar that clearly stated that she was the wife of a person belonging to the scheduled tribe category. So

there was no misrepresentation on her part.

9. This being the position, we are of the opinion that it is a fit case where the provision of Article 142 of the Constitution of India ought to be invoked to do substantive justice by converting the order of termination from services into an order of compulsory retirement. We order accordingly.

10. The order of termination of the services of the appellant is converted into an order of compulsory retirement. As a consequence of the aforesaid order, the service benefits as the appellant may be entitled to, on being compulsorily retired shall be computed and released in her favour within six weeks from today.

11. The appeal is disposed of on the above terms while leaving the parties to bear their own expenses.

W.P.(C) No. 266/2018

1. Application seeking exemption from filing official translation is allowed.
2. Learned counsel for the petitioner states that in light of the orders passed in Civil Appeal No. 2851/2024, he does not wish to press this Writ Petition.
3. Hence, the Writ Petition is dismissed as not pressed.

.....J.
(HIMA KOHLI)

.....J.
(SATISH CHANDRA SHARMA)

ITEM NO.15

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7707/2018

(Arising out of impugned final judgment and order dated 13-11-2017 in CWP No. 3310/2016 passed by the High Court Of Himachal Pradesh At Shimla)

VIJAYLAKSHMI

Petitioner(s)

VERSUS

THE STATE OF HIMACHAL PRADESH & ORS.

Respondent(s)

WITH

W.P.(C) No. 266/2018 (X)

(IA No. 46796/2018 - EXEMPTION FROM FILING O.T.)

Date : 21-02-2024 These petitions were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) Mr. Dr. M.p. Raju, Adv.
Mr. James P. Thomas, AOR
Mr. Alok Kumar Prasad, Adv.
Mr. K.k. Vinosh, Adv.
Mr. Ravi Sagar, Adv.
Mr. Remish Lakra, Adv.

For Respondent(s) Mr. D.k. Thakur, Adv.
Mr. Rajeev Kumar Gupta, Adv.
Mr. Tavleen Singh, Adv.
Mr. Vallabhi Shukla, Adv.
Mr. Joginder Mann, Adv.
Mr. Divyansh Thakur, Adv.
Ms. Niharika, Adv.
Mr. Bimlesh Kumar Singh, AOR

Mr. Vinod Sharma, AOR

Mr. Anil Nag, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal (Civil Appeal No. 2851 OF 2024) is disposed of in terms of the signed order along with the pending application(s), if any.
3. The Writ Petition (W.P.(C) No. 266/2018) is dismissed as not pressed in terms of the signed order.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(signed order is placed on the file)

(NAND KISHOR)
COURT MASTER (NSH)