



2025:DHC:3658-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 08.05.2025*

+ W.P.(C) 4453/2025 & CM APPL. 20584/2025  
DELHI JAL BOARD

.....Petitioner

Through: Ms.Sangeeta Bharti, Standing  
counsel for DJB with  
Mr.Shreesh Pathak, Adv.

versus

SH O P GAUD

.....Respondent

Through: Mr.M.K. Bhardwaj, Adv.  
(through VC) along with  
respondent present in Court

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MR. JUSTICE MANOJ JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed challenging the Order dated 04.09.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 4524/2018, titled ***O.P. Gaud (Ex. A.E. (Civil) Group 'B') v. Delhi Jal Board***, allowing the said O.A. with the following directions:

- “(i) The impugned order dated 22.11.2016 (Annexure A/1) and appellate order dated 29.05.2018 (Annexure A/52) are set aside;*  
*(ii) Applicant shall be entitled to all consequential benefits in accordance with the relevant rules and instructions on the subject including opening of the sealed cover.*  
*(iii) The aforesaid directions shall be complied with by the respondents, as expeditiously as*



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*possible, and preferably within 10 weeks of receipt of a copy of this order.”*

2. To give a brief background of facts to the present petition, the respondent was initially appointed as a Junior Engineer (Civil) in the year 1991, under the Scheduled Tribe category. Along with his application, he had submitted a caste certificate issued by the Tehsildar, Indore. He was later appointed to the post of Assistant Engineer (Civil) in the year 1999 and was considered for promotion to the post of Executive Engineer (on Current Duty Charge basis) in the year 2006.

3. In the year 2008, a complaint was received in the Vigilance Department of the petitioner, stating that the respondent's caste certificate was not genuine. This resulted in a prolonged inquiry, the complete details of which are not necessary to be reproduced herein. Suffice it to say, the petitioner addressed a letter dated 25.08.2008 to the District Magistrate, District, Indore Collectorate, Moti Tabela, Indore, Madhya Pradesh, seeking verification of the genuineness of the caste certificate produced by the respondent. In response, dated 16.09.2008, the Zila Sanyojak, Adim Jati Kalyan Vibhag, Zila Indore, stated that the said certificate, dated 17.12.1990, was valid only for a six month period and was temporarily issued by the Nayab Tehsildar.

4. Thereafter, the petitioner started writing to the respondent asking for a fresh/permanent certificate to be submitted by him. The respondent, on one pretext or the other, however, did not produce such a certificate. This eventually led to the filing of FIR No. 388/2013, Police Station DBG Road, Delhi, against the respondent. A



Departmental Inquiry against the respondent was also initiated by the petitioner vide Memorandum dated 03.10.2013, on the following Article of Charges:-

**“Article No. 1**

*That he got himself appointed in Delhi Jal Board (erstwhile DWS & SD Undertaking) as Junior Engineer (Civil) in the year 1991 on a post reserved for Scheduled Tribe candidate by producing a Scheduled Tribe Certificate No. 1075 dated 17.12.1990. On his fresh appointment in Delhi Jal Board on the post of Assistant Engineer (Civil) through DSSSB in the year 1999 Sh. Om Prakash Gaud again submitted the above said Scheduled Tribe Certificate No. 1075 dated 17.12.1990 and got himself appointed as Assistant Engineer on a post reserved for Scheduled Tribe Candidate. On vigilance investigations, a report has been received from the concerned District Authorities i.e. Shri J.P. Yadav, Assistant Commissioner, Adiwasi Vikas, Indore alongwith report of Tehsildar Tehsil Indore dated 21.10.2013 vide his letter dated 21.10.2013 informing that no caste certificate has been issued to Sh. Om Prakash Gaud s/o Sh. Gopalji Gaud r/o 50, Netaji Subhash Marg, Indore vide Caste Certificate No. 1075 dated 17.12.1990.*

*This act of Sh. Om Prakash Gaud, Assistant Engineer (Civil), amount to gross misconduct on his part and he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. Servant. He has thereby, contravened Rule 3(1)(i)(ii) and (iii) of the CCS(Conduct) Rules,1964, as amended from time to time and made applicable to the employees of Delhi Jal Board.*

**Article No. 2.**

*That Sh. Om Prakash Gaud, Assistant Engineer (Civil) was directed vide this office letters dated 20.09.2012, 06.12.2012 and 31.01.2013 to submit his permanent Schedule*



*Tribe Caste Certificate (as the certificate produced was stated to be provisional), but he did not submit the original permanent Schedule Tribe Caste Certificate and tried to mislead the investigations by stating that he is unable to visit his hometown to get the original permanent ST caste certificate and will submit it within 5 days after receipt of the same from the authority. As he has failed to produce the Original permanent Schedule Tribe Caste Certificate, it therefore clearly shows that he does not belong to Scheduled Tribe Caste.*

*This act of Sh. Om Prakash Gaud, Assistant Engineer (Civil), amounts to gross misconduct on his part and he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. Servant. He has thereby, contravened Rule 3(l)(i)(ii) and (iii) of the CCS(Conduct) Rules,1964, as amended from time to time and made applicable to the employees of Delhi Jal Board.”*

5. Interestingly, by way of a Corrigendum dated 25.02.2014, the Article of Charge No. 1 was amended, while Article of Charge No. 2 was deleted. Article of Charge No. 1 on basis of which the departmental inquiry was held, read as under:

*“That he got himself appointed in Delhi Jal Board (erstwhile DWS & SD Undertaking) as Junior Engineer (Civil) in the year 1991 on a post reserved for Scheduled Tribe candidate by submitting a Scheduled Tribe Certificate No. 1075 dated 17.12.1990 and got himself appointed as Assistant Engineer on a post reserved for Scheduled Tribe Candidate. Shri Om Prakash Gaud later submitted that due to some typographical erroring the Office of Caste Certificate issuing authority, the date of issue of abovesaid caste certificate was mentioned as 17.12.90 instead of actual date of issue 17.12.83.*



*The Scheduled Tribe Certificate No. 1075 was, therefore, verified from the competent authority for its issuance on both the above mentioned dates, that is 17.12.83 and 17.12.90. However, it is found that the issuing authority had not issued any Scheduled Tribe Certificate bearing no.1075 to Sh. Om Prakash Gaud on 17.12.83 or 17.12.90. As such, Sh.Om Prakash Gaud had submitted false/fake Scheduled Tribe Certificate bearing no.1075 at the time of his appointment in Delhi Jal Board (erstwhile DWS & SD Undertaking) as Junior Engineer (Civil) in the year 1991 on a post reserved for Scheduled Tribe candidate, and again in the year 1999 on his fresh appointment in Delhi Jal Board as Assistant Engineer (Civil) through DSSSB on a post reserved for Scheduled Tribe candidate.”*

6. In the inquiry proceedings, it was found that no caste certificate was issued in the name of the respondent on 17.12.1983 or 17.12.1990, and the respondent was found guilty of submitting a forged caste certificate for gaining employment and later for re-appointment. On the basis of this finding of the Inquiry Officer, by an Order dated 22.11.2016, the respondent was visited with the punishment of “*dismissal from service which shall ordinarily be a disqualification from future employment under the Government*”. Respondent’s appeal against the penalty order, was dismissed by the Appellate Authority of the petitioner, vide order dated 29.05.2018.

7. In the criminal case, however, the Police, after a complete inquiry, filed a Closure Report. The petitioner herein filed a Protest Petition against the same, which came to be adjudicated upon by the learned Chief Metropolitan Magistrate (Central), Delhi (in short, ‘CMM’), and was dismissed by Order dated 27.08.2018. Some of the



observations made by the learned CMM in the said order are relevant for the purposes of the present petition, and are reproduced hereinbelow:-

*“The prime question before the Court is, if the ST Certificate filed by the accused is false or genuine. It is not disputed now that the accused actually belongs to "Gond" community which has been notified as Scheduled Tribe community by the Government of Madhya Pradesh. His school and college records establish this fact. Similarly, certificate of ST category had also been given to the brother of the accused Sh. Harish Gaud, which was found to be genuine as per record of Tehasildar office, Indore. Therefore, it is nowhere the claim of the Delhi Jal Board now that the accused does not belong to the ST community. The only issue is with respect to genuineness of the ST certificate in possession of the accused.*

*The authenticity of the said certificate can be established by (i) The Certificate Issuance Register maintained at the concerned office of Tehasildar, Indore, or (ii) By examining Sh. G.D. Joshi, the then Naib Tehasildar, whose signatures are appearing on the certificate, as informed by the accused, or (iii) By examination of any other person who could identify signatures of said Sh. G. D. Joshi.*

*It is come in investigation that the Certificate Issuance Register for the relevant period is not traceable with the concerned authority. Despite repeated attempts, the said record could not be traced. It is not a case that not such register exists or that no such certificate was part of that register. When the register itself is not traceable, the Court cannot conclude that the certificate on record did not exist therein. It is not a case that the*



*register has been concealed or destroyed by the accused, as no such allegation is there.*

*Further, the signatory of the said certificate Sh G.D. Joshi has already expired on 25.05.2005. Therefore, he could not be examined in the present case.*

*Despite this, the IO was able to record the statement of one Sh. Kanhaiya Lal Solanki, who was posted as Reader to the said Sh. G.D. Joshi at the relevant time. This witness duly identified his writing and stated that the dispatch number 1075 dated 17.12.1980 had been written by him, after it was signed by the Naib Tehasildar Sh. G.D. Joshi. From the said version, it would be clear that the certificate filed by the accused is genuine and not a forged document. There is nothing for the Court to disbelieve this witness and no reason has been given by the complainant as to why his version should be discarded. It is not even the case of the complainant that the said Sh. Kanhaiya Lal Solanki is a false witness or that the writing on the certificate did not belong to him. Even the Reader to Sh. G.D. Joshi is competent enough to identify the signatures of the said Sh. G.D. Joshi. This would be therefore sufficient to establish the authenticity of the certificate.*

*Still, as abundant caution, IO collected the admitted signatures of Sh. G.D. Joshi as appearing on the pay roll bills for the period 1980. The said signatures were sent to FSL for comparison with the signatures on the said certificate. The report of FSL has also been obtained in which it has been opined that the admitted signatures tallied with the questioned signatures. In such position, when the signatures/handwriting of Sh. G.D. Joshi have been tallied even by the experts, there is no merit in the claim of the complainant that IO "should have" collected the admitted signatures and should have sent to the FSL. IO*



*has already taken the admitted, signatures and sent to FSL, and the report is quite favourable to the accused.*

*In view of this, position, this Court is satisfied that there is no evidence on record to show that any offence of cheating or forgery or use of forged document was committed. There is no evidence to show that the ST Certificate furnished by the accused is a forged or false document”.*

8. In view of the above order, the learned Tribunal, by its Impugned Order, placing reliance on the judgments of the Supreme Court in ***Roop Singh Negi v. Punjab National Bank & Ors.***, (2009) 2 SCC 570 and in ***G.M. Tank v. State of Gujarat & Ors.***, (2006) 5 SCC 446, allowed the O.A. filed by the respondent, directing his reinstatement with all consequential benefits.

9. Aggrieved by the said impugned order, the petitioner has filed the present petition.

10. The learned counsel for the petitioner submits that the learned Tribunal failed to appreciate that the respondent was given repeated opportunities to submit a fresh/permanent caste certificate, however, the respondent failed to produce the same, and therefore, the Disciplinary Inquiry was initiated against the respondent.

11. She further submits that only because, in the criminal investigation, the case against the respondent could not be proved, as the standard to be applied in a criminal case and in a Departmental Inquiry are different, the same cannot act as a *res judicata* against the petitioner in the Departmental Inquiry, thereby rendering the Departmental Inquiry subject to a challenge. She submits that the



learned CMM, in its Order dated 27.08.2018, has also observed that the said order would have no effect on the Departmental Inquiry, both being distinct. We quote the relied upon observations of the learned CMM as under:-

*“At the outset, it is to be understood that the present criminal proceedings are quite different from the disciplinary proceedings against the accused at the departmental level. This Court is primarily concerned with the commission of a criminal offence of cheating and forgery and not about the different stands allegedly taken by an employee before the department. To establish the criminal offence, the court should not be influenced by the different dates of certificate mentioned by the accused, unless there is some evidence on record to show that the said certificate is a forged document.*

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*The departmental inquiry and the investigation found that the date of 17.12.1990 is not the date of said certificate, because it did not bear the signatures of the issuance authority at that time Sh. P.C. Rathi and against the number 1075, one birth certificate had been issued, in favour of Sh. Basanti Lal. Apparently, such details have been given only on the basis of record of the Tehasildar office and the Court has no reason to disbelieve the same. For that matter, even the accused does not dispute this fact. Therefore, the Court need not go further into that issue, particularly when the accused also claims that the certificate was not dated 17.12.1990. Similarly, this Court also need not go into the date of 17.11.1983 as given by the accused to the department, rightly or wrongly, deliberately or negligently or under some error or mistake. This is primarily a matter of departmental inquiry and the Court cannot, on the basis of such divergent versions of the*













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document has been declared to be genuine, the said charge automatically fails.

19. We, therefore, find no merit in the present petition. The same is dismissed. The pending application also stands disposed of.

**NAVIN CHAWLA, J**

**MANOJ JAIN, J**

**MAY 8, 2025/rv/SJ**

*Click here to check corrigendum, if any*