



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13871 of 2020
CNR No. ODHC010313222020

In the matter of an application under Articles 226 & 227 of the Constitution of India.

.....

Debendra Mangual

....

Petitioner

-versus-

Hindustan Aeronautics Ltd. & Ors.

Opposite Parties

For Petitioner : Mr. S.K. Samal, Advocate

For Opp. Parties : Mr. G. Mukherji, Sr. Advocate
along with
Mr. S. Acharya, Advocate

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 10.09.2026 & Date of Judgment: 07.10.2026

Biraja Prasanna Satapathy, J.

The present writ petition has been filed inter alia with the following prayer:-

*“The petitioner therefore, most humbly prays that,
your Lordships may be graciously be pleased to admit this*



writ petition and after hearing both the parties, be pleased to set aside the order passed by the opposite party No.3 as per Annexure-8 and the order passed by the opposite party No.4 as per Annexure-17 and while quashing the same, be pleased to direct that the petitioner will be entitled to all service benefits and back wages till the date of his retirement as he has already attained the date of his retirement since long;

And for which act of kindness, the petitioner shall as in duty bound, ever pray.”

2. Learned counsel appearing for the Petitioner contended that Petitioner entered into service under the Opp. Party-Hindustan Aeronautics Ltd. (in short HAL) as against the post of Turner-B vide order dtd.10/12.05.1971 so issued under Annexure-1. Pursuant to such order of appointment issued under Annexure-1, Petitioner joined in his services on 24.05.1971 and along with his joining report, he also submitted the caste certificate so issued by the Addl. District Magistrate, Kataka under Annexure-2, showing the Petitioner belongs to Scheduled Caste, his Sub-caste being ‘Mala’.

2.1. It is contended that since Petitioner was appointed as against the post of Turner-B as a reserve category candidate, certificate issued under Annexure-2 on 10.08.1970, was produced by the Petitioner



along with his joining report on 24.05.1971. It is further contended that after such joining as against the post of Turner-B, Petitioner was promoted to the post of Turner-A, Master Technician, Master Machinist and ultimately to the post of Senior Master Machinist on 14.08.1989.

2.2. Learned counsel appearing for the Petitioner contended that the caste 'Mala' basing on which Petitioner was recognized as having belong to Scheduled Caste and was issued with the certificate under Annexure-2, was recognized as Scheduled Caste in the Constitutional Order namely the Scheduled Caste & Scheduled Tribes Orders (Amendment) Act, 1956 so available under Annexure-C/1 to the counter affidavit. In the said Constitutional Order, the Sub-Caste 'Mala' finds place at Sl. No. 56.

2.3. It is contended that even though Petitioner was appointed as a reserve category candidate vide order under Annexure-1, having belong to Scheduled Caste with his Sub-Caste 'Mala' and after such joining not only he was allowed to continue w.e.f.24.05.1971, but also was extended with promotion to various ranks, but while so continuing vide letter dtd.19.10.1995 under Annexure-3, so issued by



Opp. Party No. 3, Petitioner was directed to file an explanation as to why disciplinary action shall not be taken against him for having committed fraud in submitting a forged caste certificate and with the allegation that Petitioner does not belong to 'Mala' Sub-caste and in fact belongs to 'Malha', which is not a sub-caste, coming under Scheduled Caste.

2.4. Learned counsel appearing for the Petitioner contended that Petitioner submitted his explanation to the show-cause on 05.11.1995 under Annexure-4, indicating therein that Petitioner belongs to 'Mala' Sub-caste and accordingly the caste certificate has been issued in his favour under Annexure-2. A stand was also taken that the caste certificate so issued under Annexure-2 since stands, having not been cancelled at any point of time, the disciplinary proceeding be dropped.

2.5. It is contended that even though such a reply was made by the Petitioner under Annexure-4, but Opp. Party No. 3 by holding that the reply is unsatisfactory, constituted a one-man enquiry committee to enquire into the allegation that Petitioner does not belong to Scheduled Caste vide his letter dtd.28.11.1995 under Annexure-5.



2.6. Learned counsel appearing for the Petitioner contended that challenging such action of Opp. Party No. 3, in directing for an enquiry under Annexure-5, Petitioner approached this Court in OJC No. 9124 of 1995. However, this Court vide order dtd.08.01.1996 while disposing the matter, when directed the Petitioner to place his grievance before the enquiry committee, Petitioner submitted his show-cause on 08.01.1996 and participated in the enquiry.

2.7. It is contended that even though the enquiry officer did not hold the Petitioner guilty of the charges/allegations, but Opp. Party No. 3 having not been satisfied with the enquiry report, issued a show-cause on 08.02.1997 under Annexure-6, proposing therein as to why appropriate punishment will not be imposed on the Petitioner by giving a disengagement note to the finding of the Enquiry Officer.

2.8. It is contended that challenging such show-cause notice issued by Opp. Party No. 3 on 08.02.1997 under Annexure-6, Petitioner once again approached this Court by filing OJC No. 2948 of 1997. This Court vide order dtd.24.02.1997, while disposing the writ petition, when directed the Petitioner to submit his explanation to the show-cause, Petitioner submitted the same on 15.03.1997 under Annexure-



7. In the said reply a specific stand was taken that since the caste certificate issued under Annexure-2, has never been cancelled and the Sub-caste 'Mala' has been recognized by the Constitutional Order, 1950, Petitioner has not committed any misconduct and accordingly, made a prayer to exonerate him from the charges.

2.9. It is contended that without proper appreciation of the reply so made by the Petitioner under Annexure-7, and the admitted fact that caste certificate issued under Annexure-2 was never cancelled, Opp. Party No. 3 passed the order of termination vide order dtd.21.04.1997 under Annexure-8.

2.10. Learned counsel appearing for the Petitioner contended that such an order was passed by Opp. Party No. 2 under Annexure-8, relying on two (2) letters issued on 16.09.1995 by the Tahasildar, Aali and letter dtd.12.02.1997 issued by the District Welfare Officer, Kendrapada. It is however contended that both the letters which were relied on by the disciplinary authority-Opp. Party No. 3 while disposing the issue by imposing the punishment of termination, were never provided to the Petitioner along with the show-cause issued under Annexure-3 or in the subsequent show-cause issued under



Annexure-6. Accordingly, Petitioner challenged the order of termination so passed under Annexure-8, once again before this Court in OJC No. 6295 of 1997.

2.11. It is contended that such Writ Petitioner filed by the Petitioner in OJC No. 6295 of 1997 was disposed of vide order dd12.12.2018 under Annexure-14 series, by giving liberty to the Petitioner to move the appellate authority and for consideration of the Petitioner's claim in the light of the judgment passed by this Court in the case of ***Damodar Mohapatra vs. Union of India & Ors.***, 2012 (II) OLR-111.

2.12. Learned counsel appearing for the Petitioner contended that in terms of the order passed by this Court on 12.12.2018, Petitioner moved the appellate authority-Opp. Party No. 4 by filing an appeal on 18.02.2019 under Annexure-15. Even though Petitioner was given a personal hearing by the appellate authority, but Opp. Party No. 4 vide order dtd.10.06.2019 under Annexure-17 while rejecting the appeal, confirmed the order of punishment passed by the disciplinary authority in its order dt.21.04.1997 under Annexure-8.



2.13. While assailing the impugned order of termination so passed by Opp. Party No. 3 under Annexure-8 and confirmed by Opp. Party No. 4 in his order under Annexure-17, learned counsel appearing for the Petitioner contended that since the caste certificate issued in favour of the Petitioner under Annexure-2, wherein Petitioner was declared as having belong to Scheduled Caste, his Sub-Caste being 'Mala', was never cancelled by following due procedure of law at any point of time, by holding that Petitioner has committed a fraud in submitting such a certificate to get the benefit of appointment cannot be accepted.

2.14. On the face of such certificate being produced by the Petitioner under Annexure-2, relying on the letter issued by the Tahasildar, Aali on 16.09.1995 and by the District Welfare Officer, Kendrapada on 12.02.1997, Petitioner could not have been terminated after rendering service for around 25 years under HAL. Not only that copies of letter dt.16.09.1995 as well as 12.02.1997 since were never provided to the Petitioner along with the show-cause so issued by Opp. Party No. 3, those letters could not have been relied on by Opp. Party No. 3 in imposing the punishment of termination, which is a major punishment.



2.15. Learned counsel appearing for the Petitioner also contended that on similar ground one Damodar Mohapatra when was terminated by the authorities of HAL, the matter was carried to this Court in W.P.(C) No. 1002 of 2009. This Court in its judgment dtd.25.01.2012 so reported in 2012 (II) OLR 111, while quashing the order of termination so passed in the case of **Damodar Mohapatra**, held the Petitioner therein to be continued in service from the date of his termination, till he attained the age of superannuation with all financial benefits. This Court in Para 7 to 12 of the said Judgment has held as follows:-

“7. It is quite apparent from the report of the Inquiry Officer (Annexure-12) that after taking into consideration all materials placed be-fore him, the inquiry Officer gave his finding that the original caste certificate of the Petitioner bears Government Seal & was signed by Additional District Magistrate & District Welfare Officer, Cuttack, which is the correct procedure for issuing a Scheduled taste certificate & the said certificate was not a false certificate, nor it was cancelled & therefore, he exonerated the Petitioner of the charge. The Inquiry Officer also took into account the defect in the charge to the effect that though the basis of initiation of the proceeding against the Petitioner was letter No. 5356 dated 14.09.1995 (Annexure-8) in which Additional Tahasildar, Cuttack indicated that the Petitioner belongs to 'MALLA' caste which was not a Scheduled caste, in the charge-



sheet the Petitioner was intimated that he belongs to 'MALHA' caste. However, having come to the conclusion that the communities 'MALLA' & 'MALHA' were local variations of the caste, 'MALA' & accordingly the competent authorities were issuing caste certificates in favour of all such communities as 'MALA' caste which is admittedly a scheduled caste, he suggested for a further verification & accordingly exonerated the Petitioner on benefit doubt. The disciplinary authority, on the other hand, differed from the finding of the Inquiry Officer but has apparently accepted the suggestion of the Inquiry Officer & carried out a further verification of the social status of the Petitioner unilaterally, as revealed from paragraph-2 of the second show cause notice under Annexure-13, & came to the conclusion that the Petitioner belongs to caste 'MALLA' which is not a local variant of 'MALA' community. The manner in which the disciplinary authority conducted further verification is not clear from Annexure-14. Whatever verification was made by him is behind the back of the Petitioner, for which he did not get any opportunity to contest the same. This amounts to clear violation of the principle of natural justice with regard to the conduct of the proceeding. It further appears that the disciplinary authority has fully relied upon the letter of the Addl. Tahasildar, Cuttack bearing No. 5356 dated 14.09.1995 (Annexure-8), which had been rejected by the Inquiry Officer giving cogent reasons for the same. The second show cause notice & the order of the disciplinary authority, however, mentioned no reason as to why the said letter of the Additional Tahasildar should be accepted. Apparently that letter was collected & utilised from the side of the department. Therefore, the dissenting finding of the disciplinary authority cannot be legally sustained.



8. *We also find a material discrepancy in the charge as well as in the punishment order passed by the disciplinary authority & that to a great extent the finding of the disciplinary authority is not in consonance with the charge levelled against the Petitioner. The charge was framed alleging that the Petitioner did not belong to 'MALA' community but he belongs to 'MALHA' community. However, the charge was framed on the basis of letter of the Addl. Tahasildar under Annexure-8 in which it was stated that the Petitioner belongs to 'MALLA' community. Undisputedly, 'MALLA' & 'MALHA' are two distinct communities & neither of them is synonymous with the other. The finding of the disciplinary authority, however, is primarily based on the letter of the Additional Tahasildar that the Petitioner belongs to 'MALLA' caste which was not the charge against him. In such view of the matter, the Petitioner could not have been held guilty by the disciplinary authority.*

9. *It is very significant to note that in W.P(C) No. 5190 of 2000 filed by the Petitioner against the Opp. Parties a Division Bench of this Court while disposing of the writ application by Order Dated 22.09.2008 gave a clear finding that the Petitioner does not belong to 'MALA' or 'MALHA' caste & to that effect there was no evidence available before Opp. Party Nos. 3 to 6 when they decided to issue second show cause notice to terminate him. This finding of the Court has reached finality & therefore, a different finding by the Appellate authority was wholly uncalled for. The Appellate order under Annexure-21 reveals that the Appellate authority has not taken into consideration, the aforesaid finding of this Court. This Court having already come to the conclusion that there was no acceptable evidence before the disciplinary authority to come to the conclusion that the Petitioner belongs to either*



'MALLA' or 'MALHA' community, it was not open to the Appellate authority to accept the very same material & to agree with the finding of the disciplinary authority. With the finding of this Court, the Appellate authority should have set aside the order of punishment of the Petitioner But he has failed to do so, His order is wholly contrary to the finding of this Court in the earlier writ application & therefore it cannot be sustained.

10. For the aforesaid reasons, we are unable to sustain the original & Appellate orders of punishment of termination of service of the Petitioner.

11. During the course of hearing the Learned Counsel for Opp. Party Nos. 3 to 7 submitted that now that a Scrutiny Committee has been formed by the State Government in terms of the direction given by the Apex Court in the case of Kumari Madhuri Patil v. Addl. Commissioner, Tribal Development; (1994) 6 SCC 241: AIR 1995 SC 94, the enquiry with regard to the caste status of the Petitioner may be referred to the said Scrutiny Committee. Being satisfied that the original caste certificate of the Petitioner which he produced before the Opp. Parties at the time of his appointment was not false & that admittedly in the meantime the Petitioner having crossed the age of superannuation since years, we are unable to accept the suggestion made by the Learned Counsel for the Opp. Parties.

12. In the result, we allow the writ application and quash Annexures-14, 17 and 21 and further declare that the petitioner be deemed to be continuing in service from the date of his termination till he reached the date of superannuation and shall be entitled to all financial benefits.”



2.16. It is accordingly contended that even though claim of the Petitioner is squarely covered by the decision of this Court in the case of ***Damodar Mohapatra***, but without following the order passed in the said case so directed, the appellate authority-Opp. Party No. 4 rejected the appeal vide order dtd.10.06.2019 under Annexure-17.

2.17. It is also contended that not only Petitioner's claim is covered by the decision in the case of ***Damodar Mohapatra***, but also Tahasildar, Aali while issuing letter dtd.11.04.2001 under Annexure-11, clearly opined that till 01.10.1993, 'Mala' community included 'Malha' & 'Malhar'. However, the Sub-Caste 'Malha' and 'Malhar' were included in SEBC category in terms of the Resolution issued by the Govt. in the Tribal Welfare Department on 10.09.1993 w.e.f.01.10.1993. Such a clarification was issued basing on similar query made by the authorities of HAL in the case of Nabakishore Patra and Gourahari Samal. Relevant opinion of the Tehsildar reads as follows:-

"As per the scheduled castes and scheduled tribes (Amendment) Act, 1976 in part XIII-Orissa in Sl. No.56 of the list "MALA" has been included in the scheduled caste list so these two persons obtained their



caste certificates as scheduled caste Sub-Caste "MALA" on the basis of this list. It is reasonably be concluded that the caste "MALHA" AND "MALA" may be due to local variants. But the amended list was operative till 1.10.93.

Subsequently Govt. in Tribal Welfare Department resolution No.25455/r.w.dt.10.9.93 published in the Orissa Gazette No.40 (Supplement) dt.1.10.93 have excluded, "MALHA" and "MALHAR" and included in S & E.3.C.in Sl. No.185 of the schedule.

It may be clarified that till 1.10.93 the "MALA" community included "MALHA" & "MALHAR" availed of the opportunity of schedule caste being enrolled in "MALA" and from 1.10.93 they have been recognised as Socially and Educationally Back Class category of caste."

2.18. It is also contended that on a similar issue and with regard to issuance of caste certificate in favour of persons belonging to Radhi, Niari and Ghani community in the synonymous name of 'Dewar', Govt. in the SC & ST Development Department in its letter dt.26.08.2000 under Annexure-12 while issuing direction to withdraw the earlier notification, basing on which such caste certificates had been issued in favour of persons belonging to Radhi, Niari and Ghani



as 'Dewar', issued the following clarification, so reflected in Para 3 & 4:-

"3. In view of the above observation of the Hon'ble High Court of Orissa, the Government have decided to withdraw the earlier letter No. 2622 dt.3.2.97 issued by the erstwhile Tribal Welfare Department with immediate effect and no Caste Certificate shall be issued in favour of persons belonging Radhi, Niari and Ghani communities as synonymous to "Dewar" caste by any Caste certificate issuing authorities henceforth, as the said communities do not find place in the presidential order in respect of State of Orissa under Article-341 of the Constitution of India.

4. It is clarified that the persons already in possession of the caste Certificates and availing the benefits of reservation prior to withdrawal of the above Circular shall not be unsettled because of this withdrawal. However they shall be entitled for future benefits."

2.19. It is also contended that though in the Presidential Notification issued on 25.09.1956 under Annexure-C/1, the sub-caste 'Mala', 'Jhala', 'Malo' or 'Zala' were not only included in Scheduled Caste Category vide Entry No. 56 but also vide the Constitution (Scheduled Castes) Orders (Second Amendment) Act, 2002, so notified on 17.12.2002 under Annexure-13, Entry No. 56 was substituted as 'Mala', 'Jhala', 'Malo', 'Zala', 'Malha', 'Jhola'.



2.20. Making all these submissions, learned counsel appearing for the Petitioner contended that since Petitioner belongs to 'Mala' Sub-Caste which is recognized as Scheduled Caste as per the Constitutional Order, 1950 with entry at Sl. No. 56 of the notification issued on 25.09.1956 under Annexure-C/1, and the certificate issued under Annexure-2 was never cancelled, basing on the communication issued by the Tahasildar, Aali on 16.09.1995 or by the District Welfare Officer, Kendrapada on 12.02.1997 and by holding that Petitioner does not belong to Scheduled Caste, Petitioner could not have been terminated on the ground that Petitioner has got the benefit of appointment by committing fraud, vide order dtd.21.04.1997 under Annexure-8, so confirmed vide order dtd.10.06.2019 under Annexure-17.

2.21. Not only that even though claim of the Petitioner is squarely covered by the decision in the case of ***Damodar Mohapatra***, but Opp. Party No. 4, without following the direction contained of this Court in its order dtd.12.12.2018 in OJC No. 6295 of 1997, rejected the appeal vide the impugned order dtd.10.06.2019 under Annexure-17. It is accordingly contended that in view of the decision in the case of



Damodar Mohapatra and the fact that caste certificate issued under Annexure-2 in favour of the Petitioner has not yet been cancelled, the ground on which Petitioner was terminated from his services vide order under Annexure-8, confirmed vide order under Annexure-17 requires interference of this Court and with quashing of both the orders, let it be held that Petitioner continued in his services till he attained the age of superannuation.

2.22. It is also fairly contended that order passed in the case of ***Damodar Mohapatra*** in the meantime has already been implemented by the authorities of HAL.

3. Mr. G. Mukherjee, learned Sr. Counsel appearing for the Opp. Party-HAL on the other hand made his submission basing on the stand taken in the counter affidavit so filed. It is contended that Petitioner got the benefit of appointment having belong to reserve category candidate vide order dtd.10/12.05.1971 under Annexure-1. In terms of the said order of appointment, Petitioner while joining in his services pursuant to Annexure-1, produced the certificate issued in his favour under Annexure-2, wherein he was recognized as Scheduled Caste, his Sub-caste being 'Mala'.



3.1. It is contended that while so continuing under HAL, when it came to the knowledge of the Opp. Parties that Petitioner does not belong to Scheduled Caste, a show-cause was issued to the Petitioner on 19.10.1995 under Annexure-3. However, while giving his reply to the show-cause under Annexure-4, since Petitioner took a stand that the Sub-Caste 'Mala' is otherwise called in the locality as 'Malla' and 'Malha' and Tehsildar has stopped issuing such certificate for which **Utkal 'Mala' Jatiya Juba Samiti** has made a representation before the Collector & District Magistrate, Kataka as well as ADM, Kataka, it is to be presumed that Petitioner does not belong to Sub-caste 'Mala'. It is accordingly contended that in view of the such admission made by the Petitioner in his reply to the show-cause under Annexure-4, it has to be held that Petitioner does not belong to Sub-caste 'Mala' and accordingly, not to be treated as having belong to Scheduled Caste.

3.2. It is also contended that in Para 3 & 9 of the writ petition, Petitioner has also pleaded that 'Mala' sub-caste is locally called as 'Malla' and 'Malha'. Therefore, in view of such admission, it is to be



held as Petitioner's sub-caste is not 'Mala'. Stand taken in Para 3 and 9 of the writ petition reads as follows:-

"3. That the petitioner is a member of scheduled caste community namely "MALA" Sub-caste and this "MALA" sub-caste is locally called as "MALLA" and "MALHA" and the petitioner humbly submits that his fore-fathers also belonged to "MALA" Caste.

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9. That accordingly the persons belonging to sub-caste "MALA" which is locally called as "MALLA" and/or "MALHA" were granted schedule caste certificates by various appropriate authorities for various purposes, namely to receive schedule castes scholarships while continuing study and to secure admission in the educational institution and to obtain employment in the government Department or Public Sector Undertakings under the reservation quota and accordingly the petitioner was granted the scheduled caste certificate by the Additional District Magistrate, Cuttack on 10.08.1970 wherein it was mentioned that the petitioner was belonging to "MALA" sub-caste of Schedule caste community and the copy of the certificate is annexed herewith as Annexure-2."

3.3. It is also contended that while continuing under the Opp. Parties, when it came to the knowledge of the opp. Parties that Petitioner does not belong to Scheduled Caste, he was issued with the show-cause



under Annexure-3. Reply made by the Petitioner to the show-cause under Annexure-4, being not found satisfactory, Opp. Party No. 3 vide letter dt.28.11.1995 under Annexure-5 constituted an One Man Enquiry Committee to enquire into the issue.

3.4. Even though the Enquire Officer vide his report dt.12/19.08.1996 opined that caste certificate submitted by the Petitioner is not false or cancelled and held the Petitioner not guilty, Opp. Party No. 3 being the disciplinary authority, while not accepting the report submitted by the enquiry officer in his report dt.12/19.08.1996, issued the show-cause dt.08.02.1997 under Annexure-6, enclosing therein the enquiry report and the disengagement note. In the show-cause so issued, Opp. Party No. 3 while proposing the punishment of termination by holding the Petitioner guilty of the charges, asked the Petitioner to submit his reply.

3.5. It is contended that since the disciplinary authority did not agree with the finding of the enquiry officer while issuing the show-cause under Annexure-6, Opp. Party No. 3 proposed to impose the punishment of termination and with due consideration of the reply made by the Petitioner to the same under Annexure-7, Opp. Party No.



3 while disposing the proceeding, imposed the punishment of termination vide order dtd.21.04.1997 under Annexure-8. It is accordingly contended that no illegality or irregularity can be found with the order of termination so passed under Annexure-8.

3.6. It is further contended that pursuant to the order passed by this Court in OJC No. 6295 of 1997, Petitioner though preferred an appeal before the appellate authority-Opp. Party No. 4, but the appellate authority after due consideration of the appeal, confirmed the order of termination with dismissal of the appeal vide order dtd.10.06.2019 under Annexure-17. Since the order passed by Opp. Party No. 3 has been confirmed in appeal, this Court while exercising the power under Article 226 of the Constitution of India is not required to interfere with the same in a mechanical manner.

3.7. It is also contended that claim of the Petitioner is not covered by the decision in the case of ***Damodar Mohapatra*** and relevancy and effect of the said judgment has been properly dealt with by the appellate authority while rejecting the appeal.



3.8. It is further contended that while getting the benefit of appointment and on being allowed to join, Petitioner vide Annexure-E/1 while submitting the attestation form, agreed with the terms and conditions so reflected therein. It is contended that in the form itself there was an warning in Para 3 that if any false information has been furnished or has been suppressed and it comes to the notice at any time during the service, his services will be liable to be terminated. In terms of such stipulation contained in Para 3 of Annexure-E/1. Petitioner was issued with the show-cause under Annexure-3 and subsequent show-cause under Annexure-6. It is accordingly contended that Petitioner is not protected because of his continuance for around 24 years in view of such warning reflected in Annexure-E/1.

3.9. It is also contended that in the attestation form so furnished by the Petitioner under Annexure-E/1, he admits his Sub-caste to be 'Mala' in Para 9(b). It is accordingly contended that in view of the stipulation contained in Annexure-E/1, since it came to the knowledge of the Opp. Parties that, Petitioner does not belong to Scheduled Caste and he got the benefit of appointment as a reserve category candidate by using the certificate issued under Annexure-2, with due initiation of



the proceeding and by following the principle of natural justice, Petitioner since has been terminated vide order under Annexure-8, so confirmed vide order under Annexure-17, no illegality or irregularity can be found with the same. In support of his submission, reliance was placed to a decision of this Court in the case of **Krupasindhu Sahoo vs. Hindustan Aeronautics Ltd.** reported in 1998 SCC OnLine Ori 400. This Court in Para 21 of the said decision has held as follows:-

“21. It is also brought to the notice of the Court that in AIR 1996 SC 1182: (1996 AIR SCW 1167), S. Swigaradoes v. Zonal Manager, it has been laid down in paragraph 3 of the decision that in other words, the constitutional mandate is that it is the President who is empowered in consultation with the Governor of the State to specify by public notification, the caste, race or tribe or parts or groups within castes races or tribes which shall for the purpose of the Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory. The case of B. Basavalingappa, AIR 1965 SC 1269 (supra) has also been referred to in para-4 of the judgment. It has been held in para-4 that it is not open to any one to include any caste as coming within the notification on the basis of evidence, oral or documentary, if the caste in question does not find specific mention in terms of the notification, it was not open, therefore, to give evidence that a particular caste was a Scheduled Caste not mentioned in 1950 Order.”



3.10. It is accordingly contended that since Petitioner has been terminated from his services because of suppression of material fact and Petitioner does not belong to Sub-caste 'Mala' and accordingly does not belong to Scheduled Caste, no illegality or irregularity can be found with such action of the Opp. Parties. Since Petitioner got the benefit of appointment by using a caste certificate so issued under Annexure-2 with his sub-caste 'Mala', Petitioner has been rightly terminated from his services, which requires no interference of this Court.

4. Having heard learned counsel appearing for the Parties and considering the submission made, this Court finds that Petitioner entered into service under the Opp. Parties-HAL as against the post of Turner-B vide order of appointment issued under Annexure-1 on 10/12.05.1971. In terms of the said order and while joining in his service on 24.05.1971, Petitioner produced the caste certificate so issued in his favour under Annexure-2.

4.1. As found, in the caste certificate issued under Annexure-1 by the ADM, Kataka, Petitioner was recognized as Scheduled Caste, his sub-caste being 'Mala'. It is also found from the Constitutional Order,



1950 vide Entry No. 56 of Annexure-C/1, Sub-Caste 'Mala' has been recognized as having belong to Scheduled Caste.

4.2. It is found that Petitioner on such appointment and joining on 24.05.1971, was allowed to continue under the Opp. Parties with due extension of promotion to different ranks at different point of time. But while so continuing and for the first time, a show-cause was issued on 19.10.1995 under Annexure-3, on the ground that Petitioner has got the benefit of appointment by committing fraud, which violates the Company's Standing Order. Petitioner though submitted his reply under Annexure-4, but Opp. Party No. 3 being the disciplinary authority, not satisfied with the reply, constituted an One Man Enquiry Committee to cause enquiry with regard to allegation against the Petitioner vide letter dt.28.11.1995 under Annexure-5.

4.3. Even though the Enquiry Officer in his report dt.12/19.08.1996, did not held the Petitioner guilty of the charges and also held that certificate issued under Annexure-2 is not a false one nor cancelled, but as found Opp. Party No. 3 being the disciplinary authority, by disagreeing with the findings of the Enquiry Officer with assigning of various reasons, issued the show-cause on 08.02.1997 under



Annexure-6, proposing therein to impose the punishment of termination.

4.4. As found, Petitioner though submitted his reply to the same on 15.03.1997 under Annexure-7. But Opp. Party No. 3 passed the order of termination terminating the Petitioner from his services vide order dtd.21.04.1997 under Annexure-8. It is found that challenging such order, Petitioner approached this Court by filing OJC No. 6295 of 1997. The said writ petition was ultimately disposed of by this Court on 12.12.2018 under Annexure-14 series, permitting the Petitioner to move the appellate authority and with a direction on the appellate authority to dispose of the appeal, taking into account the decision of this Court in the case of ***Damodar Mohapatra*** so cited (supra). However, as found the appellate authority rejected the appeal vide order dtd.10.06.2019 under Annexure-17.

4.5. This Court taking into account the materials available on record, finds that certificate issued under Annexure-2 recognizing the Petitioner as having belong to Scheduled Caste with his Sub-Caste 'Mala' was never assailed by anybody nor it was cancelled at any point of time and it stands as on date.



4.6. However, as found Opp. Party No. 3 being the disciplinary authority relying on two (2) letters issued by the Tahasildar, Aali on 16.09.1995 and by the District Welfare Officer, Kendrapada on 12.02.1997, held the Petitioner not to be Scheduled Caste and accordingly issued the order of termination under Annexure-8, while disagreeing with the finding of the Enquiry Officer.

4.7. It is also found that while issuing the show-cause under Annexure-3 and the subsequent show-cause under Annexure-6, copies of the letters issued by the Tahasildar, Aali and District Welfare Officer, Kendrapada on 16.09.1995 on 12.02.1997 were never provided to the Petitioner.

4.8. It is therefore the view of this Court that without providing such letters to the Petitioner along with the show-cause, contents of the said letters could not have been utilized against the Petitioner. Not only that, since the certificate issued under Annexure-2, has not yet been assailed nor any document has been enclosed to the counter affidavit, showing cancellation of the same, it is the view of this Court that unless and until the certificate issued under Annexure-2 is cancelled in accordance with law, benefit of the certificate cannot be taken away.



4.9. It is also found from the Constitution Order issued vide notification dt.25.09.1956 under Annexure-C/1 and notification issued on 08.12.2002 under Annexure-13, vide Entry No. 56, sub-caste 'Mala' has been treated as Scheduled Caste. Since Petitioner with his sub-caste 'Mala' has been issued with the certificate under Annexure-2, which was never cancelled, view of Opp. Party Nos. 3 and 4 that Petitioner does not belong to Scheduled Caste is without any valid and cogent reason.

4.10. It is also found that similar issue was before this Court in the case of ***Damodar Mohapatra*** and this Court while interfering with similar nature of punishment, allowed the claim in the case of ***Damodar Mohapatra***, which has also been implemented as contended by the learned counsel for the Petitioner.

4.11. In view of the aforesaid analysis, this Court is of the view that the order of termination passed by Opp. Party No. 3 on 21.04.1997 under Annexure-8, confirmed by the appellate authority-Opp. Party No. 4 vide order dtd.10.06.2019 under Annexure-17 cannot sustain legal scrutiny and accordingly are not sustainable in the eye of law. While holding so, this Court is inclined to quash the orders issued



under Annexure-8 & 17 and while quashing the same, this Court held the Petitioner to have continued in service till he attained the age of superannuation and is entitled to get all service and financial benefits as due and admissible. This Court accordingly directs Opp. Party No. 3 to complete the entire exercise within a period of three (3) months from the date of receipt of this order.

5. The writ petition accordingly stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Orissa High Court, Cuttack
Dated the 7th October, 2026/Sneha

Signature Not Verified

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Reason: Authentication
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Date: 07-Oct-2026 18:08:50

