



2024 INSC 634

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 13484-13488 of 2019)

K. NIRMALA & ORS.APPELLANT(S)

VERSUS

CANARA BANK & ANR.RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 19877 of 2019)

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 23500-23501 of 2019)

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 13453 of 2019)

J U D G M E N T

Mehta, J.

1. Heard.
2. Leave granted.

3. This batch of appeals, which involves identical questions of fact and law, arises from the judgments delivered by the Division Bench of the High Court of Karnataka, as listed in the table below. Given the similarities, the appeals have been heard together and are being decided collectively.

SLP No(s).	Writ Appeal No(s).	Date of Impugned Judgement	Concerned Respondents/ Employer	Community (Scheduled Caste/Scheduled Tribe)
Special Leave Petition(C) No. 13484-13488 of 2019	Writ Appeal No. 189-193 of 2019	24th April, 2019	The Canara Bank of India	Kotegara (SC)
Special Leave Petition(C) No. 19877 of 2019	Writ Appeal No. 2253 of 2018 (S-R)	3rd July, 2019	The Oriental Insurance Co. Ltd.	Kuruba (ST)
Special Leave Petition(C) No. 23500-23501 of 2019	Writ Appeal No. 3666 of 2016(S-DIS) c/w Writ Appeal No. 3483 of 2016	3rd July, 2019	The Hindustan Aeronautics Ltd.	Kuruba (ST)

Special Leave Petition(C) No. 13453 of 2019	Writ Appeal No. 316 of 2019	24th April, 2019	The Canara Bank of India	Kotegara (SC)
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Civil Appeals arising out of SLP (C) No(s). 13484-13488 of 2019 shall be treated as the lead matter. The outcome of these appeals shall govern all the connected matters.

4. The common thread that runs through these matters is as to whether a person who joined the services of a Nationalized Bank/Government of India undertaking based on a certificate that identified him/her as belonging to a Scheduled Caste(‘SC’)/Scheduled Tribe(‘ST’) in the State of Karnataka, pursuant to the State Government's notifications, would be entitled to retain the position after the caste/tribe has been de-scheduled. The situation has arisen on account of the State of Karnataka re-designating some castes under the list of SC/ST, inspite of the fact that this jurisdiction is exclusively conferred upon the Parliament by virtue of the scheme under Articles 341 and 342 of the Constitution of India.

5. In brief, the individual details of the appellants in the lead matter are detailed below: -

S. No.	Name of the Appellant herein	Date of Issuance of Caste Certificate	Date of Joining Service
1.	K. Nirmala/Appellant No. 1	6th February, 1978	26th December, 1978
2.	K.V. Shankar/Appellant No. 2	17th March, 1978	20th July, 1981
3.	D.K. Prabhakar/Appellant No. 3	17th March, 1978	24th March, 1981
4.	S. Suresh/Appellant No. 4	2nd March, 1981	23rd March, 1981
5.	Muktha S. Rao/Appellant No. 5	30th November, 1987	30th November, 1987

6. As evident from the table above, appellant Nos. 1 to 5 in Civil Appeals @ SLP(C) Nos. 13484-13488 of 2019 were employed by the Canara Bank(hereinafter referred to as 'respondent No.1-bank') in the Scheduled Castes Category based on Caste Certificates, certifying that they belonged to the 'Kotegara' community, a synonymous caste which was made equivalent to the caste called 'Kotegar Matri' (included in the Scheduled Castes list) by a Government circular dated 21st November, 1977 issued by the State of Karnataka. It is

undisputed that the appellants duly obtained these Caste Certificates in accordance with the prevailing Government circular.

7. A Constitution Bench of this Court in ***State of Maharashtra v. Milind and Others***¹, held that the State Government has no authority to amend or modify the Scheduled Castes and Scheduled Tribes list published under Articles 341 and 342 of the Constitution of India. A caste can only be classified as a Scheduled Caste or a Scheduled Tribe or a Socially and Educationally Backward Caste when the Presidential Order is issued to that effect in exercise of the powers prescribed under Articles 341, 342, and 342A of the Constitution of India respectively. In ***Milind(supra)***, this Court held as below: -

“15. Thus, it is clear that States have no power to amend Presidential Orders. Consequently, a party in power or the Government of the day in a State is relieved from the pressure or burden of tinkering with the Presidential Orders either to gain popularity or secure votes. Number of persons in order to gain advantage in securing admissions in educational institutions and employment in State services have been claiming as belonging to either Scheduled Castes or Scheduled Tribes depriving genuine and needy persons belonging to Scheduled Castes and Scheduled Tribes covered by the Presidential Orders, defeating and frustrating to a large extent the very object of protective discrimination given to such people based on their educational and social backwardness. **Courts cannot and should not expand jurisdiction to deal with the question as to whether a particular caste, sub-caste; a group**

¹ (2001) 1 SCC 4

or part of tribe or sub-tribe is included in any one of the entries mentioned in the Presidential Orders issued under Articles 341 and 342 particularly so when in clause (2) of the said article, it is expressly stated that the said Orders cannot be amended or varied except by law made by Parliament. The power to include or exclude, amend or alter Presidential Order is expressly and exclusively conferred on and vested with Parliament and that too by making a law in that regard.

The President had the benefit of consulting the States through Governors of States which had the means and machinery to find out and recommend as to whether a particular caste or tribe was to be included in the Presidential Order. If the said Orders are to be amended, it is Parliament that is in a better position to know having the means and machinery unlike courts as to why a particular caste or tribe is to be included or excluded by law to be made by Parliament. Allowing the State Governments or courts or other authorities or Tribunals to hold inquiry as to whether a particular caste or tribe should be considered as one included in the schedule of the Presidential Order, when it is not so specifically included, may lead to problems. In order to gain advantage of reservations for the purpose of Article 15(4) or 16(4) several persons have been coming forward claiming to be covered by Presidential Orders issued under Articles 341 and 342. This apart, when no other authority other than Parliament, that too by law alone can amend the Presidential Orders, neither the State Governments nor the courts nor Tribunals nor any authority can assume jurisdiction to hold inquiry and take evidence to declare that a caste or a tribe or part of or a group within a caste or tribe is included in Presidential Orders in one entry or the other although they are not expressly and specifically included. **A court cannot alter or amend the said Presidential Orders for the very good reason that it has no power to do so within the meaning, content and scope of Articles 341 and 342. It is not possible to hold that either any inquiry is permissible or any evidence can be let in, in relation to a particular caste or tribe to say whether it is included within Presidential Orders when it is not so expressly included.**

(emphasis supplied)

8. Pursuant to the judgment in the case of *Milind*(*supra*), the Ministry of Finance, Department of Economic Affairs(Banking

Division), Government of India in consultation with the Ministry of Welfare *vide* letter dated 12th March 1987, declared the State of Karnataka circulars which included the 'Kotegara' caste in the list of Scheduled Castes in the State of Karnataka to be *non-est*. The letter addressed to the Chairman & Managing Director of the concerned authorities is reproduced herein below:-

“.....Persons belonging to Kotegara, Kote-Kshatriya are not entitled to get benefits as scheduled castes in Karnataka. These communities have never been(sic) treated as scheduled castes in Karnataka. The State Government have no power to make any amendment in the existing lists of lists, of SCs/STs can be done only through an Act of Parliament in view of Articles 341(2) and 342(2) of the constitution. In view of this, the orders issued by the Govt. of Karnataka to this effect does not have any validity.

In view of the position explained above, persons belonging to Kotegara and Kote-Kshatriya who have been appointed against the vacancy reserved for scheduled castes cannot be treated as scheduled castes even at the time of their initial appointment because these community have never been treated as synonymous of Kotegar-Matri(sic) by the Government of India which is in the list of SSC in Karnataka. It is infact, entirely the responsible of employer Department to have the matter verified through the State Government, before accepting the claim of the candidates who have been appointed against the reserved posts.”

9. The Government of Karnataka issued a circular dated 11th March, 2002 providing protection to individuals employed in State services who had obtained Caste Certificates based on a synonymous caste under the Government circulars, issued by the State. These individuals were to be treated as having been appointed under the

General Merit(GM) category, effective from 11th March, 2002. The said circular also provided that such candidates would not be eligible for future promotions or any other benefits as SCs/STs, although they could claim benefits under the respective Backward Classes to which they belonged. Although the 'Kotegara' community was not included in this circular, a subsequent circular dated 29th March, 2003 was issued by the Government of Karnataka, extending the benefits of the circular dated 11th March, 2002 to individuals belonging to the Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara, and Sarvegara communities, who had obtained Caste Certificates in accordance with the earlier Government circulars.

10. It is also undisputed that the Caste Certificates held by the appellants were cancelled by the Competent Authority, namely the District Caste Verification Committee, and this decision was communicated to their respective employers. Subsequently, criminal proceedings were initiated against some of the appellants at the concerned police station; however, these proceedings were quashed by the High Court while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, 1973(hereinafter referred to as 'CrPC').

11. Respondent No. 2 i.e., Additional Director General of Police, Directorate of Civil Rights Enforcement Cell, intimated respondent No.1-bank to terminate the services of the appellants on the ground that they had secured employment based on fake Caste Certificates. In turn, respondent No.1-bank issued notices to the appellants calling upon them to show cause as to why their services should not be terminated. The appellants challenged the aforesaid notices by filing writ petitions before the High Court of Karnataka which came to be rejected.

12. Being aggrieved by the dismissal of their writ petitions, the appellants preferred intra-Court writ appeals before the learned Division Bench of the High Court against the order of the learned Single Judge. The Division Bench of the High Court dismissed the intra-Court appeals.

13. This batch of appeals by special leave has been preferred to assail the decisions of the learned Division Bench of the High Court of Karnataka, rejecting the writ appeals as indicated in the table above.

Submissions on behalf of the appellants: -

14. Learned counsel representing the appellants, vehemently and fervently contended that the very foundation of the case as presented by respondent No. 1-bank and the other employers, that the Caste Certificates held by the appellants are false/fake, is misplaced. They contended that the Caste Certificates were validly issued by the Competent Authority, affirming/certifying that the appellants belonged to the Scheduled Caste as their caste had been included in the Scheduled Castes list by virtue of the notifications/circulars issued by the Government of Karnataka. They further submitted that the effect of the cancellation of these Caste Certificates pursuant to the judgment in ***Milind***(*supra*) would only deprive the appellants from claiming any additional/future service benefits including promotion etc. based on their reserved category status. None of the appellants had ever misrepresented themselves before the authorities regarding their caste and the contentious Caste Certificates were issued after following the due process of law, and thus the same cannot be questioned as false or fake Certificates.

15. Learned counsel further submitted that following the Government circulars dated 11th March, 2002 and 29th March, 2003

issued by the Government of Karnataka, the Ministry of Finance(Department of Financial Services)(Welfare Section), Government of India had also issued a letter dated 17th August, 2005, to the Chairman and Managing Director, State Bank of Mysore with the following directions: -

“2. In para 2 of this Ministry's letter No.4(4)/2002-SCT(B) dated 30th April, 2003, it has been suggested that where the caste certificate is cancelled by the State Government after consideration of the matter by the Security Committee consisting of 3 members and where the concerned employee was given a chance to present his case before the Committee, no further disciplinary proceedings need be taken and the employee's services can be terminated forthwith.

3. It has, inter alia, been stated in your letter under reference that based on the Government of Karnataka's Order dated 29 March 2003, several employees whose caste certificates are no longer valid, are seeking their appointment to be considered in general category and withdrawal of pending cases against them to permitting them to surrender their original caste certificates to the competent authority for cancellation.

4. In this regard, it is clarified that where the scheduled caste has been de-scheduled/de-notified after appointment in the Bank, the concerned employee may be treated as a general category employee in the post based roster and the disciplinary case, if any pending against him/her may be withdrawn by permitting him/her to surrender the original caste certificate to the competent authority for cancellation.”

Placing reliance on the letter dated 17th August, 2005, learned counsel submitted that the above communication clearly provides that when a Scheduled Caste has been de-scheduled or de-notified after an employee(s) appointment in the bank, such employee(s) may

be reclassified as General category employee(s) in the post-based roster. Any pending disciplinary cases against the employee(s) should be withdrawn, requiring them to surrender the original Caste Certificate to the Competent Authority for cancellation.

16. Learned counsel contended that since the Ministry of Finance, Government of India, had also endorsed the views expressed in the circulars dated 11th March, 2002 and 29th March, 2003 issued by the Government of Karnataka, the learned Division Bench of the High Court fell in error while denying relief to the appellants and in refusing to protect their services by granting them the benefits of these circulars. He also asserted that the subsequent communication *via* Office Memorandum issued by the Ministry of Social Justice and Empowerment on 8th July, 2013 relied upon by the respondents cannot be read and employed to the detriment of the appellants because the same does not have retrospective application.

17. Learned counsel further submitted that the Division Bench of the Karnataka High Court erred in denying relief to the appellants by relying upon the judgment in the case of ***Chairman and Managing Director Food Corporation of India and Others v. Jagadish***

Balaram Bahira and Others² because the ratio of the said judgment is based on the interpretation of *the* “Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000”, which was a special enactment specific to the State of Maharashtra. No such enactment exists in the State of Karnataka, which, in contrast, had issued circulars dated 11th March, 2002 and 29th March, 2003, protecting those individuals who had obtained Caste Certificates on the basis of pre-existing circulars issued by the State by referring to the synonymous castes.

18. On these grounds, learned counsel for the appellants implored the Court to accept the appeals; set aside the impugned orders; and command the respondents to protect the services of the appellants.

Submissions on behalf of the respondents:-

19. *E-converso*, learned counsel representing the respondents, vehemently and fervently opposed the contentions advanced on behalf of the appellants. They urged that the appellants had

² (2017) 8 SCC 670

procured employment against the reserved category seats based on false Caste Certificates and thus, they are not entitled to protect their services. It was submitted that the Government circulars dated 11th March, 2002 and 29th March, 2003 issued by the Government of Karnataka provided protection only to the individuals employed in the State services and thus, the said circulars could not have enured to the benefit of individuals akin to the appellants who procured employment with the Central Government/Government of India Undertakings/Autonomous Institutions over which the Government of India has deep and pervasive control.

20. Learned counsel for the respondents stressed upon the Office Memorandum dated 8th July, 2013 issued by the Ministry of Social Justice and Empowerment, Government of India referring to the Government of Karnataka circular dated 11th March, 2002 and urged that the synonymous castes, Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara, and Sarvegara, etc. are not mentioned in the Scheduled Castes list of the State of Karnataka and therefore, the members of these synonymous castes i.e., the appellants herein cannot claim the benefits of the Scheduled Caste category even in the State of Karnataka.

21. Learned counsel submitted that the controversy at hand is squarely covered by the Constitution Bench judgment of this Court in the case of ***Milind***(*supra*), wherein it has been laid down beyond the pale of doubt that the States have no power to amend the Presidential Orders issued under Article 341 of the Constitution of India. The power to include or exclude, amend or alter the Presidential Order is expressly and exclusively conferred on and vested with the Parliament, and that too by making law in this regard, and thus, the appellants were rightly denied relief by the Division Bench of the Karnataka High Court.

22. Learned counsel representing the respondent No.1-bank, urged that the appellants are not entitled to claim protection of their services which they procured against the reserved seats on the basis of false or fake Caste Certificates.

23. Learned counsel representing the other respondents-employers adopted the above submissions and implored the Court to dismiss the appeals and affirm the judgments rendered by the High Court.

24. We have given our thoughtful consideration to the submissions advanced at the bar and have gone through the impugned judgments and the material placed on record.

Discussion and Conclusion: -

25. At the outset, it is to be noted that there is no dispute over the fact that the appellants obtained their Caste Certificates (under the Scheduled Castes category) by following the due process of law. When these Caste Certificates were issued, the synonymous caste, as of the appellants had been included in the list of Scheduled Castes by virtue of the circular issued by the Government of Karnataka, *albeit* by exercising powers that were not vested in the State.

26. As held by the Constitution Bench in ***Milind***(*supra*), any inclusion or exclusion in or from the list of Scheduled Castes can only be made through an Act of Parliament under Articles 341 and 342 of the Constitution of India. As a corollary thereto, neither the State Government nor the Courts have the authority to modify the list of Scheduled Castes as promulgated by the Presidential order under the above Articles.

27. For this precise reason, pursuant to the judgment in ***Milind***(*supra*), the Government of Karnataka took the only permissible decision to de-schedule the castes to which the appellants herein belonged. However, considering the fact that the Caste Certificates issued to the appellants under the previous

inclusions made by the State Government to the Scheduled Castes list, *albeit* under a legal misconception was not obtained through misrepresentation or fraud, the State Government took the pragmatic decision to protect the employment of those individuals who had been benefited by these Caste Certificates obtained prior to issuance of the Government circulars dated 11th March, 2002 and 29th March, 2003. There is no dispute on the fact that each of the appellants herein fall within this category. These Government circulars clearly stipulate that individuals who secured employment based on the Caste Certificates issued under the erroneous Government circulars/orders would no longer be entitled to claim future benefits under such certificates and would henceforth be treated as General Merit category candidates for all practical purposes.

28. The Ministry of Finance, Government of India, while referring to the Government of Karnataka's circular dated 29th March 2003, clarified and recommended that in cases where a Scheduled Caste employee(s) has been de-scheduled after an appointment in the Bank, the concerned employee(s) may be treated under the General Merit category, and any disciplinary cases pending against him/her

should be withdrawn, and such employee(s) would have to surrender the original Caste certificate to the Competent Authority.

29. There cannot be any two views on the proposition that with the issuance of the Government of Karnataka's circulars dated 11th March, 2002 and 29th March, 2003, the Scheduled Caste Certificates held by the appellants herein stood automatically revoked and they were brought under the unreserved category with effect from 12th March, 1987.

30. In the case of *Milind(supra)*, this Court was dealing with the issue regarding the State's power to amend the Presidential Order. It was held that the State has no jurisdiction to tinker with the Presidential Orders issued under Article 341 of the Constitution of India. It was not even urged by the learned counsel for the appellants that the certificates held by the appellants based on the erroneous list of inclusion issued by the State Government were valid or should be protected. Their only prayer was to protect the services of the appellants while conceding that their Caste Certificates would be deemed invalid and that they would not be entitled to any future benefits under the reserved category.

31. Even in the case of *Milind(supra)*, while concluding the judgment, this Court saved the services of the respondents therein in the following manner:-

“38. Respondent 1 joined the medical course for the year 1985-86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practising as a doctor. In this view and at this length of time it is for nobody's benefit to annul his admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to Respondent 1. If any action is taken against Respondent 1, it may lead to depriving the service of a doctor to the society on whom public money has already been spent. In these circumstances, this judgment shall not affect the degree obtained by him and his practising as a doctor. But we make it clear that he cannot claim to belong to the Scheduled Tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled Tribes Order any further or for any other constitutional purpose. **Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP (C) No. 16372 of 1985 and other related matters, we make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment.**”

(emphasis added)

32. The circulars dated 11th March, 2002 and 29th March, 2003 were issued by the Government of Karnataka whereby, protection was extended to the persons who had taken advantage of the Caste Certificates issued prior to issuance of the letter dated 12th March, 1987, by the Ministry of Finance, Government of India. Subsequently, the Ministry of Finance, Government of India *vide* office memorandum dated 17th August, 2005 also ratified this

decision of the State, and extended the protection granted by the Government of Karnataka to the employees of the respondent No.1-bank.

33. On a close scrutiny of the Office Memorandum dated 8th July, 2013, which was heavily relied upon by the learned counsel for the respondents, it transpires that the concerned authority in para 3 of the Office Memorandum referred only to the Government circular dated 11th March, 2002 issued by the Government of Karnataka for excluding certain castes from the umbrella of protection. It states that *“the Government Notification dated 11th March 2002 related to Parivara, Talwar, Maleru, Kuruba, Besta, and Koli communities, whose members had obtained Scheduled Tribe certificates. In the said order there is no mention of Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara, and Sarvegara, etc castes.”*

34. Apparently thus, the above Office Memorandum was issued in ignorance of the Government of Karnataka’s circular dated 29th March 2003, which further extended the protection granted by the earlier Government circular dated 11th March, 2002 to the communities including Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara, and Sarvegara as well. This

Government circular seems to have completely escaped the notice of the Ministry of Social Justice and Empowerment, Government of India while issuing the Office Memorandum dated 8th July, 2013. Clearly thus, the Office Memorandum suffers from the vice of non-consideration of a vital document being the circular dated 29th March, 2003 issued by the Government of Karnataka. Hence, we have no hesitation in holding that the Office Memorandum dated 8th July, 2013, cannot supersede the communication dated 17th August, 2005 issued by the Ministry of Finance and the same cannot be read to the prejudice of the appellants.

35. In wake of the discussion made above, we conclude that the appellants are entitled to protection of their services by virtue of the Government circular dated 29th March, 2003 issued by the Government of Karnataka as ratified by communication dated 17th August, 2005 issued by the Ministry of Finance. The circular dated 29th March, 2003 issued by the Government of Karnataka specifically extended protection to various castes, including those which were excluded in the earlier Government circular dated 11th March, 2002. This subsequent circular covered the castes such as Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara,

and Sarvegara, thus, ensuring that individuals of these castes, holding Scheduled Castes Certificates issued prior to de-scheduling, would be entitled to claim protection of their services *albeit* as unreserved candidates for all future purposes. Additionally, the communication issued by the Ministry of Finance dated 17th August, 2005 reinforced the protective umbrella to the concerned bank employees and also saved them from departmental and criminal action.

36. There is an additional feature in Civil Appeals @ SLP(C) Nos. 23500-23501 of 2019, that must be highlighted. The appellant, in the said appeals namely Smt. Hemavathy, contends that she secured 8th rank in the Bachelor of Engineering course with a specialization in Industrial Production from Mysore University in 1995. It was argued on her behalf that regardless of the Caste Certificate, the appellant would have secured a job at Hindustan Aeronautics Limited(hereinafter being referred to as 'HAL') based on her merit in engineering degree and that the show cause notice was issued as women employees are not welcome in the institution(HAL). This significant contention raised by the appellant has not been

adequately traversed by the respondent-HAL in their counter affidavit.

37. Consequently, we hold that the proposed action of the respondent banks/undertakings in issuing notice(s) to the appellants to show cause as to why their services may not be terminated cannot be sustained and are hereby quashed.

38. As a result, the impugned judgments rendered by the Division Bench do not stand to scrutiny, and hence, the same are quashed and set aside.

39. The appeals are accordingly allowed in these terms. No costs.

40. Pending application(s), if any, shall stand disposed of.

.....**J.**
(HIMA KOHLI)

.....**J.**
(SANDEEP MEHTA)

New Delhi;
August 28, 2024