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Central Administrative Tribunal, Principal Bench
New Delhi
O.A. No.585 of 2002

New Delhi this the 14th day of November, 2002

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M. P. Singh, Member (A)

Kanchan Bedey Mahto
Ex. Constable of Delhi Police,
FIS No.2894667
R/o Vill.- Manatu Tangtang Tole,
P.O.- Kamdey, P.S.:-Kankey,
Distt.:- Ranchi, Jharkhand.
(By Advocate : Shri Anil Singh)

- Applicant

Versus

1. Commissioner of Police,
Police Head Quarters,
I.P. Estate, New Delhi.
2. Joint Commissioner of Police,
Southern Range, PHQ,
I.P. Estate, New Delhi.
3. Addl. D.C.P. (South-West Distt.)
through Comm. of Police,
Police Head Quarters,
I.P. Estate, New Delhi.
(By Advocate : Shri Ajay Gupta)

- Respondents

ORDER

Mr. M.P. Singh, Member (A)

By filing the present OA, the applicant, claiming the following relief:-

- "1. To quash and set aside the impugned orders as mentioned in-1 of OA and direct the respondents to reinstate the applicant in service with all consequential benefits including promotion/ seniority and arrears of pay."
2. The brief facts of the case are that the applicant was appointed as a Constable in Delhi Police in the year 1994. A complaint was received that he had got his appointment as Constable in Delhi Police by procuring a fake/bogus caste certificate bearing No.320 dated 10.10.1988 regarding his caste is 'Bedeya', which falls under the category of Scheduled Tribe.

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3. The departmental inquiry was initiated against the applicant under the provisions of Delhi Police (Punishment and Appeal) Rules, 1980 vide office order dated 2.6.1998. On an inquiry, it was found that he belongs to 'Kurmi' caste, which does not fall under the category of Scheduled Tribe. The inquiry report further revealed that the BDO office Kanke District Ranchi had issued caste certificate bearing registration number from 1205 to 1341 during the month of October, 1988 whereas, the registration number on photocopy of the caste certificate submitted by the applicant is 320. It is alleged that the applicant had also submitted the original certificate, which does not bear any registration number and date to append the same in his Ch. Roll. Hence, he had deliberately concealed his real caste and secured appointment in Delhi Police by submitting a fake/bogus caste certificate.

4. An enquiry Officer was appointed to investigate the charge. The inquiry officer after completing the proceedings submitted his findings concluding therein that the charges framed against the applicant is fully established. Agreeing with the findings of the inquiry officer, a copy was served upon the applicant on 4.6.2001 with a direction to submit his representation within 15 days. The applicant had submitted his representation on 11.6.2001. The disciplinary authority also heard the applicant in O.R. on 29.6.2001. The disciplinary authority after considering the representation submitted by the applicant, the findings of the inquiry officer and other relevant material available on the D.E. file had



imposed the penalty of dismissal from service upon the applicant with immediate effect vide order dated 18.7.2001. Aggrieved by this, he has filed this OA claiming the aforesaid relief.

5. Heard both the learned counsel for the rival contesting parties and perused the material placed on record.

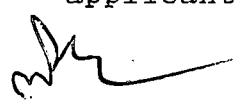
6. During the course of the arguments, learned counsel for the applicant has submitted that the father of the applicant belongs to Kurmi Caste and his mother belongs to Bedeya caste, which is recognised as a Scheduled Tribe. As per the notification of the Govt. of Bihar, such a person will be treated as a Schedule Tribe. Thus the applicant belongs to Scheduled Tribe category in terms of the aforesaid notification issued by the Govt. of Bihar. He has also submitted that the applicant has not obtained the certificate of Scheduled Tribe by committing any forgery and, therefore, he cannot be held guilty for procuring the said alleged forged/bogus certificate.

7. On the other hand, learned counsel for the respondents has submitted that at the time of appointment in Delhi Police, the applicant should have submitted a genuine certificate of Scheduled Tribe being Bedeya caste, issued from concerned office after applying the same in proper way. He has also submitted that in the letter dated 3.3.1979 issued by the Govt. of Bihar, it has been mentioned that this facility (i.e. issuing of




Scheduled Tribe Certificate in such cases) can be given only after proper inquiry and verification. Thus, the concerned department of Bihar Govt. after making enquiry and verifying the facts as per said letter dated 3.3.1979 would issue the caste certificate of Scheduled Tribe in case an individual applies for the same to that department. The applicant did not obtain the genuine certificate and submitted fake/bogus caste certificate of ST category, at the time of his recruitment in Delhi Police. He has further submitted that the Peon (PW-10) in his statement has clearly mentioned that he has checked/produced the caste register on the directions of B.D.O. and the said certificate bearing serial number 320 dated 10.10.1988 was not issued from their office. In view of the submissions made above, OA is not maintainable and is liable to be dismissed.

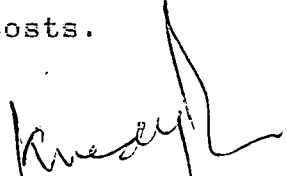
8. After perusal of the records available before us, we find that the charges framed against the applicant for submitting a bogus/fake caste certificate are proved. The inquiry has been held in accordance with the prescribed procedure, rules and instructions. The applicant has been given ample opportunities to defend his case effectively and thus, the principles of natural justice have been observed by the respondents. It is a settled legal position that the Courts/Tribunals cannot reappreciate the findings and cannot go into the quantum of punishment. We, therefore, do not find any ground to interfere with the impugned orders dated 18.7.2001 & 15.1.2002 passed by the respondents. That apart, the applicant cannot claim the benefit of being Scheduled



Tribe for appointment as Constable in Delhi Police in view of the principle laid down by Govt. of India/Ministry of Home Affairs in their OMs dated 2.5.1975, 22.3.1977, 29.3.1982, 22.2.1985 and Ministry of Welfare OM dated 8.4.1994, Govt. of ^{NCT 2} Delhi's letter dated 10.8.2001 and also in a catena of judgements of the apex courts including in the cases of Marri Chandra Shekhar Rao Vs. Dean, Seth GS Medical College & Ors. in Writ Petition(Civil) No.989/1989 decided on 2.5.1990; Action Committee on Issue of Caste Certificate to SCs and STs in the State of Maharashtra & Anr. Vs. UOI & Anr. in Writ Petition (Civil) No.898/1990 decided on 18.7.1994 and MCD Vs. Veena & Ors. in Civil Appeal No.3045/1998 decided on 14.8.2001. OM dated 2.5.1975 mentioned above, makes it clear that where a person migrates from one State to another, he can claim to belong to an SC or ST only in relation to the State to which he originally belonged and not in respect of the State to which he was migrated. In the present case, the applicant belongs to State of Bihar and even if he belongs to Scheduled Tribe community in the State of his origin, he cannot claim the same benefit for appointment in Delhi Police (Govt of NCT of Delhi) in terms of the aforesaid instructions issued by the Govt. of India and also the law laid down by the Hon'ble Supreme Court.

9. For the reasons recorded above, the OA is bereft of merit and is accordingly dismissed. No costs.


 (M.P. Singh)
 Member(A)


 (Kuldip Singh)
 Member(J)