

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2535/2001

New Delhi, this 7th day of February, 2002

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Hon'ble Shri M.P.Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Santosh W. Nandurkar
F-36, 1st Floor, Ber Sarai
New Delhi-110 016

.. Applicant

(By Shri S.P. Sinha, Advocate)

versus

1. Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi
2. Shri D.S. Michael
Under Secretary
UPSC, Shahjahan Road
New Delhi

.. Respondents

(By Shri M.M. Sudan, Sr. Counsel)

ORDER(oral)

By Shri M.P. Singh, Member(A)

Heard the learned counsel for the parties and perused the records.

2. The short point that needs determination in the present OA is whether the action of the respondents in rejecting the application of the applicant for appearing in the Civil Services (Main) Examination, 2001 by treating him as 'General' candidate while the applicant actually belongs to 'Scheduled Tribe' community which fact he has duly informed to the UPSC alongwith a caste certificate issued by the competent authority can legally be justified.

3. Briefly stated, the applicant filled up the form for taking Civil Services (Preliminary) Examination, 2001 as

2/

a general category candidate in December, 2000. At that relevant point of time, he did not have the caste certificate as there was some confusion whether his tribe "Halba" is included in the category of ST or not. He received the caste certificate issued by the Sub-Divisional Officer, Chandrapur, Maharashtra stating that the tribe "Halba" belongs to ST. On 10.4.2001 he wrote to UPSC, alongwith a copy of caste certificate, to consider his candidature under the category of ST. In response to his letter dated 10.4.2001 the Commission informed him that ordinarily the Commission do not allow change in community status indicated by a candidate in his application form for civil services (prel.) exam and therefore his status as a general candidate will not be changed. Notwithstanding the above, applicant took the preliminary examination on 20.5.2001 and qualified the same as a general category candidate as per the results declared on 27.7.2001. Thereafter, he submitted his application form to the Commission on 24.8.2001 for the main examination along with an application to treat him as ST candidate in view of the certificate dated 7.3.2001 already submitted by him. However, by letter dated 18.9.2001, he was informed by the Commission to the effect that "You are treated as 'General' candidate for this (Main) examination. As a general candidate since you have not paid fee, your application is rejected and you cease to be a candidate of Civil Services (main) examination". By the present OA, he seeks a direction to quash the aforesaid order dated 18.9.2001 and treat him as ST candidate for the main exam.

4. By an order passed by this Tribunal on 1.10.2001, after hearing the learned counsel for the parties, applicant was directed to deposit the requisite fee of Rs.100/- and to appear in the main examination.

5. Respondents have filed their reply on 20.11.2001 opposing the OA, inter alia, stating that the candidates for the preliminary examination are not required to attach with application any documents in proof of age, community, educational qualification etc. The candidates who qualify in the preliminary exam are required to fill up the detailed application form along with attested copies of documents relating to age, educational qualification, community etc. When the applicant made a request on 10.4.2001 to treat his community as ST, it was rejected vide Commission's letter dated 18.4.2001 in view of the provisions contained in Note 3 of Para 17 of the UPSC instructions to candidates of Civil Services (Main) Examination, 2001, which reads as under:

"No change in the community status indicated by a candidate in his/her application form for the preliminary examination will ordinarily be allowed by the Commission."

Thereafter, when the applicant qualified the preliminary exam as a general candidate, he was asked to fill up a detailed application form enclosing documents in support of claims made in the relevant columns of the application form. He claimed his community as ST for the main exam. As his request for change of community from general to ST was rejected, his application for

12

appearing in main examination was rejected as (No fee), as he had not paid the requisite fee. Considering his representation dated 21.9.2001 and this Tribunal's interim order dated 1.10.2001, he was admitted to the main examination on his paying the requisite fee vide admission certificate dated 5.10.2001.

6. Respondents further submit that there is no extraordinary circumstances in applicant's case and the same would apply to cases where a community of a candidate is recognised as SC/ST/OBC, after the candidate submitted his application for an examination and the candidate comes for change of community. In such cases, the Commission consider the request of the candidate for change of community on case-to-case basis on merits if the time gap between the notification of a particular caste as SC/ST/OBC and time taken by the candidate in applying for change of community is reasonable. In this particular case, the tribe of applicant was recognised as ST in the State of Maharashtra as far back as 1950. Therefore, the proviso of extraordinary circumstances cannot be invoked in this particular case.

7. Learned counsel for the applicant would submit that the applicant throughout his academic career never availed of any concession as a ST candidate and that there was some confusion about 'Halba' Tribe being a ST as per Constitution (ST) Order, 1950 or the Constitution (ST)(Union Territories) Order, 1951. It is because of this confusion, coupled with the fact that the applicant

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(13)

was not having his caste certificate, that he mentioned 'general' category at the time of filling up the form in December, 2000 for the preliminary examination.

8. On perusal of the record, we find that the applicant was able to acquire the caste certificate from the competent authority on 7.3.2001 which he duly forwarded to the Commission on 10.4.2001 requesting them to treat him as ST candidate, while the preliminary examination took place on 20.5.2001.

9. Para 11 of the aforesaid instructions reads as under:

"11. The information earlier given by candidates in the application form for the Preliminary Examination will be cross-checked with the information given by them in the application form for the Main Examination. If there are any serious discrepancies, candidates are liable to be refused admission in the Main Examination in such cases".

10. Since the applicant did not possess the caste certificate at the time of filling up the form for taking Civil Services (Preliminary) Examination, 2001, he could not have made the claim of belonging to ST community as he did not possess any document in support of his claim. He had, therefore, rightly stated as 'General' candidate at the time of filling the form. If the applicant had mentioned his status as ST candidate at the time of filling up the form and subsequently he could not have obtained the caste certificate at the time of main examination, his candidature would have been cancelled in terms of Para 11 of the aforesaid



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instructions. The applicant at no point of time had given wrong information to UPSC and, therefore, the plea taken by the respondents that the case of the applicant does not warrant to invoke the proviso of extra ordinary circumstances for change of community is not tenable in the eyes of law. Moreover, in order to avoid any discrepancy at the time of main examination, the applicant took prompt action to inform the Commission when he was able to get the caste certificate from the competent authority. Respondents should have taken cognizance of applicant's request and accepted his plea that he belongs to ST community and treated him as such.

11. In view of what has been discussed above, our answer to the query put to ourselves in para 2 above is in the negative. In the result, the letter dated 18.9.2001 is quashed and set aside. The respondents are directed to treat the applicant as belonging to ST community. The OA is disposed of in the above terms. No costs.

S. Raju

(Shanker Raju)
Member(J)



(M.P. Singh)
Member(A)

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