

Central Administrative Tribunal, Principal Bench

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OA No.707/1994

New Delhi, this 30th day of July, 1999

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)
Hon'ble Shri S.P. Biswas, Member(A)

Ajit Singh
Village Birundhi
PO Bharthana, Etawah

.. Applicant

(By Shri Sant Lal, Advocate)

versus

Union of India, through

1. Secretary
Department of Posts
Ministry of Communications
Dak Bhavan, New Delhi

2. Director Post Services (P)
Delhi Circle, Meghdoott Bhavan
New Delhi

3. Sr. Supdt. of Post Offices
New Delhi West Division
Naraina, New Delhi

Respondents

(By none)

Hon'ble Shri S.P. Biswas ORDER

The applicant, a Postal Assistant (PA for short) is aggrieved by orders dated 8.11.91 and 24/29.3.93 issued by the respondents as at Annexures A-1 and A-3 respectively. By A-1 the applicant stands removed from Government services from the date of issue of that order and by A-3 his appeal against the orders of the disciplinary authority (DA for short) has been rejected.

2. The background facts of the case are as under:

While the applicant was working as PA in Chandini Chowk/Delhi, the Senior Supdt. of Post Offices (SSPO for short)/North Division, Delhi issued a major penalty charge-sheet dated 4.1.89 under Rule 14 of CCS(CCA) Rules,

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1965 alleging submission of wrong information in respect of applicant's community and thereby using false certificate to get into government service. Applicant submitted his representation against the charge-memo, denying the charge levelled against him and urged that the disciplinary proceedings be dropped. Respondents thereafter appointed Dy. Supdt./Delhi Division as enquiry officer (EO for short) for conducting an enquiry into the charge framed against the applicant. The EO submitted his report on 9.3.90 to the SSPO/Delhi with his findings as hereunder:

(i) The certificate produced by the SPS Sh. Ajit Singh showing his caste 'Wahelia' as Scheduled Tribe is genuine and issued by the then Tehsildar, Bharthana in his official capacity;

(ii) The caste 'Wahelia' does not fall under the category of 'Scheduled Tribe';

(iii) The information furnished by Shri Ajit Singh, Postal Assistant, Chandini Chowk Post Office, Delhi North Division, Delhi-6 that he belongs to Scheduled Tribe is not correct

3. The applicant submitted his representation dated 29.3.90 (A-4) against the findings of the EO and again requested for disciplinary proceedings to be dropped. He, however, was awarded the penalty of removal from service by the DA by order dated 8.11.91.

4. The applicant seeks to challenge the aforesaid orders of the respondents on the following grounds:

That it is a case of no evidence against the applicant. The evidence of SW-2 and Office Assistant of the office of SSPO/North Dn. are not at all relevant to prove the charge against him. They are not competent witnesses to say as to which particular caste would come under the category of Scheduled Caste (SC for short) or Scheduled Tribe (ST for short). The only competent authority to satisfy, testify and

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tender evidence in such matters is the authority who had issued the caste certificate. To buttress his argument, the learned counsel for the applicant drew support on the judgement of the apex court in the case of R.Kandaswamy vs. Chief Engineer, Madras Port Trust 1997(2) SC SLJ 435 and Km. Madhuri Patel vs. Addl. Commissioner, Tribunal Development & Ors. 1995(Vol.I) SC SLJ 102.

5. The counsel for the applicant also submitted that the enquiry has been vitiated on account of Rule 14(18) of the CCS(CCA) Rules, 1965 having not been adhered to. The EO did not question the applicant on the circumstances appearing against him in his evidence at the conclusion of the enquiry proceedings, although it was mandatory for him to do so.

6. Respondents have controverted the claims. It has been submitted that the applicant secured employment by providing false certificate about his caste. At the relevant point of time, the applicant was working as PA at Chandini Chowk and on a perusal of his personal file, it was found that he had applied for the post of PA/Sorting Assistant in the office of SSPO/Allahabad Dn. with particulars of his candidature as one belonging to ST community showing his caste 'Baheliya'. On the basis of the said declaration the applicant was selected for appointment to the post of PA in Allahabad Dn. He was subsequently transferred to Delhi Dn. under Rule 38. On a thorough examination of a complaint received in this respect, it came to the notice of the respondents that the caste declared by the applicant in the original recruitment form was wrong. Keeping in view the false declaration made by the applicant about his caste as ST community, the applicant was proceeded under Rule 14 of CCS(CCA) Rules,

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1965. He was given reasonable opportunities of hearing and the EO concluded that the charge against the applicant stands proved.

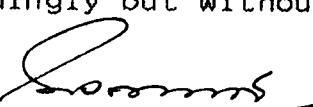
7. The issue that falls for determination is whether the applicant's claim that he has not given any wrong declaration as regards the community could be sustained in the eyes of law.

8. Whether a particular caste belongs to SC or ST community is dependent on notification issued under the provisions of the Constitution of India particularly Article 341(1) and Article 342(1). It is seen that as per the Constitution (Scheduled Castes) Order, 1950 issued by the President of India which was also published in the extraordinary Gazette of India dated 10.8.50, the caste "Baheliya" has been classified and notified as belonging to SC community in the State of UP i.e. the state of applicant's domicile. It is also evident that since 1950, the case of the applicant is "Bahelia" which has been officially notified as SC community. By securing employment in the office of the respondents and having continued there for some time, it does not lie in the mouth of the applicant to allege that the principle of natural justice has been violated before enforcing the penalty of removal from service. It is also seen that as per orders communicated to all the District Magistrates/authorities by the Commissioner and Secretary, UP Admn. in its letter No.6744/26-77-17(21)27 dated 29.8.77, the caste "Baheliya" has been shown as SC in the entire state of UP. We find that respondents have submitted that at no point of time the caste "Baheliya" has been treated and notified as a caste belonging to ST as claimed by the applicant. Even if the Tehsildar's certificate is held as

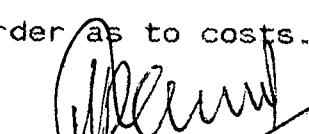
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the same would ^{not} have the necessary legal validity in the face of State Government's notification well before the Tehsildar had issued the certificate. The said Tehsildar was required to check up the official papers before issuing the certificate. The applicant's claim is, therefore, not sustainable in law. We also find that the case of Kandaswamy (supra) cited by the applicant does not render him any assistance. This is because the issue decided therein was the validity of those community certificates issued by the Tehsildar prior to 11.11.89. This cut-off date was the issue for adjudication therein. The question as to whether a particular caste belongs to SC or ST merely on the basis of certificate issued by the Tehsildar was not the issue in the aforesaid case. We are not in doubt that the caste to which the applicant belongs is SC and not ST based on the documents/materials available before us. That the applicant had in his application form claimed that he belonged to ST is not disputed. Thus the charge that the applicant falsely claimed to belong to ST has been established.

9. In the background of the detailed discussions aforesaid, the application has no merit and deserves to be dismissed. We do so accordingly but without any order as to costs.


(S.P. Biswas)

Member(A)


(A.V. Haridasan)

Vice-Chairman(J)

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