

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 156
~~KAxNo.~~

1986

DATE OF DECISION 26.8.86

Jai Gopal Petitioner

Petitioner in person Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

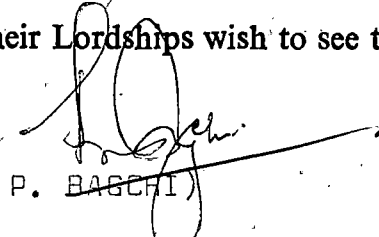
None Advocate for the Respondent(s)

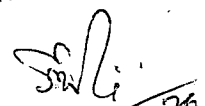
CORAM :

The Hon'ble Mr. S. P. MUKERJI, A. M.

The Hon'ble Mr. H. P. BAGCHI, J. M.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No


(H. P. BAGCHI)


(S. P. MUKERJI)

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

O.A.NO. 156
~~KAMK.~~

1986

DATE OF DECISION 26th AUGUST, 1986

Jai Gopal Petitioner

In person Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

None Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. S. P. MUKERJI, A.M.

The Hon'ble Mr. H. P. BAGCHI, J.M.

JUDGMENT.

The petitioner, Jai Gopal, a Scheduled Caste, low paid, employee of the respondents of the Ministry of Communication filed this application under Section 19 of the Administrative Tribunals Act seeking the benefit of promotion to the post of the Senior Section Supervisor w.e.f. 1978 and ^{praying for} further that he may be placed ^{as} senior to all employees who were junior to him as Clerk and were promoted, along with all the benefits ^{as a member of} to which the petitioner is entitled as Scheduled Caste.

2. The relevant facts giving rise to the present cause of action to the petitioner may be briefly stated. The petitioner joined service of the respondents as a Boy-peon in the year 1955 and he had submitted his caste certificate at the time

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of his initial appointment. He passed Matriculation Examination in 1958 and was appointed as a Clerk and on completion of 16 years of service he was granted one time-bound promotion. The petitioner is currently working as Section Supervisor (Operative) and posted at the International Telegraph Office in the grade of Rs.425. According to him, being the seniormost, he was entitled to the benefit of promotion w.e.f. 1978 but instead Shri P.D.Khatanwalia who was junior to the applicant was promoted w.e.f. 1.3.78 whereas the petitioner was promoted six years later only in the year 1984. The next higher post is that of a Senior Section Supervisor or Senior Supervisor. The petitioner claims that he should be deemed to have been promoted as Section Supervisor (operative) in the year 1978. The petitioner further asserted that his initial appointment and promotion as Section Supervisor (Operative) were on the basis of his disclosure that he belonged to Scheduled Caste and the same was also recorded in service record. The belated promotion of the petitioner as Section Supervisor (Operative) much after his juniors were promoted would cause irreparable damage to his future career. Hence he has filed the present petition for the redressal of his grievance.

3. Notice of the application was issued to the respondents. The record of proceedings show that the respondents were served on 17.4.86, but fresh notices were directed to be issued for 22.5.86. On that date, the report of the Registry was to the effect that the service of the notice was effected upon the respondent No.1 while the registered notice sent to respondent No.1 was awaited for want of A.D. Even service was also effected upon the Standing Counsel for Union of India. In the circumstances, we were satisfied that service was duly

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effected upon the respondents who did not choose to appear or file counter to the petition. Accordingly, we decided to dispose the case on merits on perusal of the record as provided under Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1985.

4. We heard the petitioner in person and carefully perused the various documents filed by the petitioner.

5. The record bears out that since 1981, the petitioner has made persistent representations to the General Managers, Telephones, New Delhi, the Chief Superintendent, Central Telegraph Office, highlighting the fact that his initial appointment as a Boy-Peon in 1955 was on the basis of his Scheduled Caste Certificate and that he had also attached the receipt of the photostat copies of the documents to prove that ^{6. they} were attached by him alongwith his representations. It was also pointed out by him that he was given promotion to the higher grade as T.A. in 1958 keeping in view his Caste Certificate despite the fact that he had only 3 years of service. It was in 1981 that he learnt that persons junior to him were promoted and that his name had been removed from the Scheduled Caste category. On his representation, the petitioner was asked to submit a fresh Scheduled Caste Certificate from the concerned authority. The petitioner accordingly submitted a Scheduled Caste Certificate dated 17.7.81 (Annexure 'G') issued by the S.D.M. Shahdara where it was stated that the matter was investigated by the S.H.O., Shakarpur within whose jurisdiction the petitioner was residing and it was confirmed that petitioner belonged to KOLI Caste which has been recognised as Scheduled Caste in the Union Territory of Delhi. This certificate was however not acceptable to the respondents on the score that it was not

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in proper form. The petitioner had also filed a certificate dated 12.12.55 issued by Shri S. M. Mushifique, A.D.M Delhi (Annexure 'B' to the petition) which shows that it was certified that "he belongs to the KOLI Community which has been recognised as a Scheduled Caste for Delhi State under the Constitution Scheduled Castes (part 'C' States) Order 1951". The stand taken by the office of the respondents has along been that although there was a copy of the Scheduled Caste Certificate but the same stood invalid as the stamp was not affixed by the attesting authority. There seems to be hardly any substance in such a plea raised almost about 26 years after the petitioner had entered ~~into~~ⁱⁿ service in 1955 and had been given the benefit of a Scheduled Caste candidate. The records further show that finally there is an order of the Assistant Director General (Station) Indian Posts & Telegraph Department, New Delhi dated 17.12.84 which is Annexure 'A' to the petition. The same is quoted below for proper appreciation : -

" Copy of letter No.226/3/79-STN dated 17.12.84 from Shri V. Ramaswamy, Asstt. Director General (STN), Director General, Post and Telegraphs, New Delhi received from A. K. Madan Asstt. General Manager (T.T.) Endst. No.STA-II/Teleg/Genl/80-84/224 dated 4.1.85.

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Sub : Claiming belonging of S/C Community - Case of Shri Jai Gopal, Telegraph Assistant,

I am directed to refer to your office letter No.STA-II/Teleg/Genl/80-84/223 dated 15/18-9-84 on the above subject and to say that the case of the official has been considered in consultation with

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D.O.P. & A.R. It has been decided that the S/C certificated dated 2.5.84 produced by the official issued by D. Commissioner, Delhi seems to be in order but he can enjoy benefits as belonging to S/C from the date he puts his claim i.e. on or after submission of S/C certificate viz 2.5.84.

Caste certificate in original is returned herewith.

Sd/-
(V. RAMASWAMY)
Asstt. Director General (STN)."

From the above order, it is evident that it was decided by the authorities to allow the petitioner to enjoy the benefits of scheduled caste from 2.5.84, the date on which the scheduled caste certificate was submitted by the petitioner. The above order appears to us to be fallacious on several grounds. As already noted, the petitioner had consistently taken the stand that his induction into the service of the respondents since 1955 was on the basis of his being a Scheduled Caste and that he had already furnished the Scheduled Caste Certificate, while ^{being} inducted ^{into} into the service. Not only the petitioner was also promoted as T.A. on the basis of his being a scheduled Caste. It was only in 1981 when one Shri P.D. Khatanwalia a junior was given promotion in 1978 that the petitioner agitated and made several representations for giving him promotion w.e.f. 1.3.78. Eventually the petitioner did succeed in obtaining a proper Scheduled Caste Certificate dated 2.5.84 issued by the Deputy Commissioner of Delhi and on that basis he was given promotion w.e.f. 2.5.84. It is not understood how a person who was initially inducted into the service on the basis of a Scheduled Caste ^{certificate} could lose the status of a Scheduled Caste and then again he is held to belong to

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Scheduled Caste w.e.f. 2.5.84. This on the face, appears to us to be too illogical, artificial and irrational. For all that one knows a person belongs to a particular caste from ~~the~~ⁱⁿ inception and not that he acquires right to belong to a particular caste from a particular date. Such a construction would be entirely repulsive to reason and common sense.

6. In the facts and circumstances of the case as discussed above, we hold that the petitioner belongs to Scheduled Caste ever since the time of his induction into service of the respondents and as such ~~he is not~~^{unless} otherwise disqualified^{in his} is entitled to the benefit of promotion as Section Supervisor (Operative) in the reserved vacancy from the date his next junior scheduled caste candidate was given the promotion, together with all consequential financial benefits. The application is accordingly allowed on these terms with no order as to costs.


(H. P. BAGCHI) 26.8.86
JUDICIAL MEMBER


(S. P. MUKERJI)
ADMINISTRATIVE MEMBER