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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

OA No.786/86

Date of decision: 15th Oct. 1992

Sh.Banwari Lal ... Applicant

versus

Union of India through
Director General
Postal Services, New Delhi
& others. ... Respondents

CORAM: THE HON'BLE SH.T.S.OBEROI, MEMBER(J).
THE HON'BLE SH.P.C.JAIN, MEMBER(A)

For the Applicant ... Sh.S.C.Gupta,
Sr.Counsel with
Sh.M.K.Gupta, counsel

For the Respondents ... None

1. Whether local reporters may be allowed to see the judgement? yes
2. To be referred to the reporter or not? No

JUDGEMENT

(DELIVERED BY HON'BLE SH.T.S.OBEROI, MEMBER(J))

In this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, a Postal Assistant in the G.P.O. Kashmere Gate, Delhi, is aggrieved by respondents' decision to take action against him for stopping his increments for two years, for allegedly presenting a certificate, showing him to be a member of the Scheduled Tribe community, which, on verification was found to be not genuine.

2. The facts giving rise to the filing of the present OA, briefly stated, are that the applicant was appointed as Time Scale Clerk,
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in the year 1972, on the basis of a certificate issued by the Additional District Magistrate, Aligarh, showing him to^{be} a member of the Scheduled Tribe community (certificate Annexure R-I). He continued to serve for nearly 12 years or so, and later on, on a decision to verify all the caste certificates issued, an enquiry was set in motion, to ascertain about the genuineness of the certificate, issued in respect of the applicant. The applicant belonged to "Khareara" community of Uttar Pradesh, which, as per certificate R-I, was shown to be a Scheduled Tribe community. However, it was later detected that this community did not pertain to the Schedule Tribe. The District Magistrate, Tehsildar, Khair District Aligarh, as well the Joint Secretary, Government of Uttar Pradesh vide their communications R-II and R-III, intimated that the caste in question, to which the applicant claimed to belong to, was not included in the Scheduled Tribe community of Uttar Pradesh. The Inquiry Officer, however, vide his report at Annexure 'C' at pages 23 to 28 came to the conclusion that as the certificate presented by the applicant was reported to be genuine, and the applicant had nowhere incorrectly mentioned his community, the charge against him has not been established. The Disciplinary Authority,

vide his order (Annexure 'D', pages 29 to 32) accepted the report of the Inquiry Officer, simultaneously adding that the applicant be treated as belonging to "other community" and will not be entitled to any concession available to 'Scheduled Tribe' community in any matter connected with his services,, as the Scheduled Tribe certificate, produced by him, at the time of recruitment was not found to be in order, on verification. His view was, however, not, accepted by the Appellate Authority on the ground that the findings of the Disciplinary Authority were neither justified nor commensurate with the gravity of the offence involved, and after giving due opportunity to the applicant, by way of a notice as to why the punishment of withholding of his next increment for two years be not imposed upon him, and after considering the reply filed by the applicant in that regard, imposed the said penalty upon the applicant. This was further enhanced by the Revisional Authority, considering even the penalty imposed by the Appellate Authority to be not sufficient, in view of the gravity of the offence involved, served the applicant with a notice as to why the penalty imposed by the Appellate Authority be not enhanced to that of dismissal from service. On receipt of representation to that effect, the Revisional

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Authority vide order Annexure 'K' pages 50 to 58 of the paper-book, decided that, in view of the long service period put in by the applicant, his removal from service would be rather harsh and ordered to impose punishment of reduction of his pay from Rs.360 to Rs.300 for a period of three years. It is against the above-mentioned orders that the present OA has been preferred by the applicant.

3. The applicant's case is based mainly on two aspects. Firstly, that as per findings during enquiry, the certificate presented by him has been found to be genuine, and he at no stage made any misrepresentation or misstatement, which may go to make him liable for punishment imposed upon him. His case further is that it is Additional District Magistrate Aligarh, who for the reasons or circumstances best known to the concerned, somehow erred to take the correct view of including the caste "Khareara" as one pertaining to the Scheduled Tribe, in Uttar Pradesh. His plea was that he, as a layman, at that stage, could hardly get to know the various castes included in the Scheduled Tribe, Scheduled Caste or other communities, and with all lists available in the office of the Additional District Magistrate,

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Aligarh, who issued the certificate in question, it was for the officials concerned in his office, to properly verify about his caste, whether included in the Scheduled Tribe or not. The respondents' case - on the other hand is that it was the applicant, who had made use of the certificate and it hardly stands to reason that he would not know about his own caste, whether included in the list of castes ~~included~~ in the Scheduled Tribe in Uttar Pradesh, or not. Further, it was contended on behalf of the respondents that the applicant, in his application form as well as ^{the} attestation form had mentioned himself to be belonging to the Scheduled Tribe, and it is nothing short of a misrepresentation, by him, to profess to belong to Scheduled Tribe community, though he was not, and it cannot be ^{without} his knowledge or connivance that he procured the said certificate and presented the same.

4. We have carefully considered the rival contentions, as briefly discussed above. We have also perused the material on record. The liability of the applicant in the acts of omission or commission, leading to the imposition of the penalty upon him in the case, is established by the very fact that he himself mentioned his being a member of the Scheduled Tribe

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community, and presented the certificate in question, after collecting the same personally from the office of the Additional District Magistrate, Aligarh. It does not stand to reason that he would not know about his own caste forming part of the Scheduled Tribe in Uttar Pradesh. Further, even if he feigns ignorance, that would be no defence to him as ignorance of law is no excuse. He claimed a vacancy meant for Scheduled Tribe community, in spite of his not belonging to that and, keeping in view the same, we find no adequate reasons to grant him the relief prayed for. In result, we find no good ground to interfere and dismiss the OA without making any order as to costs.

(P.C. JAIN)
MEMBER(A)

(T.S. OBEROI)
MEMBER(J)