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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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OA-2812/91

New Delhi this the 14th day of November, 1996.

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN
HON'BLE MR. S.P. BISWAS, MEMBER (A)

Smt. Harsh Challia,
W/o Sh. T.C. Challia,
R/o E-42, Satyavati Nagar,
Ashok Vihar III,
Delhi-110 052.

...Applicant

(By Advocates Sh. G.D. Gupta and Sh. Pramod Gupta)

Versus

1. Delhi Administration
through its Chief Secretary,
Delhi.

2. The Director of Education,
Delhi Administration,
Delhi.

...Respondents

(By Advocate Sh. Vijay Pandita)

The application having been heard on 14.11.1996, the
Tribunal on the same day delivered the following:

ORDER

Chettur Sankaran Nair (J), Chairman

Applicant challenges Annexure A-1 order of the disciplinary authority finding her guilty of making a false statement concealing the fact that she belongs to Brahmin family and obtaining a certificate that she was a member of a Scheduled Caste.

2. Applicant obtained appointment as a Teacher in the year 1978 under the Municipal Corporation of Delhi and was later promoted. She was promoted on the basis that she was a member of a Scheduled Caste. The charge against her was that she was not a member of a Scheduled Caste but that she made a false declaration obtained a certificate and got the benefit of being treated as a member

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of a Scheduled Caste. The Enquiry Officer found that applicant:

"never denies that she is not a Brahmin by birth and also she does not deny that she has not availed the benefit of SC..But these facts do not prove that she has concealed any fact or obtained S/C certificate fraudulently. The mere documents to prove the charge is the application filled by Mr. Harsh Chaliha for getting S.C. Certificate which could not be produced before Inquiry."

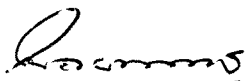
When the fact remains that the application form which alone would disclose the material fact was not produced and when that fact was noticed by the Enquiry Officer it is surprising that the disciplinary authority has made a positive finding that "she had made a false statement." May be, there are several circumstances to suggest that she obtained a certificate that she could not have obtained. That is not the point in issue. The point in issue is whether she got it by making a false declaration. The matter requires further and deeper examination at the hands of the appellate authority. Applicant submits that an appeal has been filed and Standing Counsel for respondents fairly agreed to have the appeal examined. We direct the appellate authority to examine the matter with specific reference to the question whether the application is on record and whether the finding of the disciplinary authority is based on any evidence. Applicant counsel will furnish a copy of the appeal for ready reference to respondents' counsel. The interim order passed on 27.11.1991 allowing applicant to continue in the higher post will remain in force until the


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appeal is decided. We dispose of the application as
aforesaid. No costs.

Dated the 14th day of November, 1996.


(S.P. BISWAS)
Member(A)


(CHETTUR SANKARAN NAIR (J))
Chairman

'Sanju'