

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1249 OF 2004

ALLAHABAD THIS THE 21st DAY OF JANUARY 2009

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

Vidya Prakash,
Aged about 45 years,
Son of Shri Gamma Ram,
Resident of Village Gwaltoli,
Nadi Ke pass, P.O. Hansari,
District-Jhansi (U.P.)

.Applicant

By Advocates : Shri S.K. Mishra
Shri M.P. Gupta

Versus

1. Union of India through the General Manager,
North Central Railway,
Allahabad (U.P.).
2. The Chief Workshop Manager,
North Central Railway Workshop,
Jhansi (U.P.).

. Respondents

By Advocate : Shri K.P. Singh

ORDER

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J

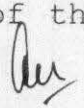
1. Heard Shri S.K. Mishra, learned counsel for the applicant and Shri K. P. Singh, learned counsel for the respondents.

2. Perused the pleadings as well as the documents annexed therewith. Applicant at the relevant time was working as helper Khalasi Grade II at North Central Railway, Jhansi. There is no dispute that applicant

got appointment as Scheduled caste candidate in the year 1986 on the basis of certain caste certificate filed at that time. Later on, applicant, as advised, applied for being treated as scheduled Tribe candidate on the ground that his Birth place was (Bhind) M.p. where persons belonging to Kunch Vadia are being treated as scheduled Tribe. Photocopy of service book as Annexure CA-1. Said document shows that applicant at the time of entry in service itself indicated his Birth place as Bhind. Certain fact finding enquiry was held and doubt was created regarding applicant's caste being treated as scheduled Tribe (at Jhansi U.P. The report of Tehsildar, Jhansi in this respect is dated 31.3.2001. Annexure -3 to CA shows that documents placed before him were not legible and he could not be able to give specific opinion on the same.

3. Be that as it may, a 'memorandum' was given to the applicant containing 'charges' has been leveled to mislead the employers by asking for being treated in the category of scheduled Tribe. By submitting certificate to that effect purported to have been issued by Tehsildar. Strange enough, the applicant has been awarded punishment by disciplinary authority (as affirmed by revisional authority) on the charge of filing a forged certificate, which does not appear to be the charge 'framed' as such.

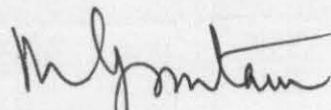
4. The impugned orders dated 22.3.2003 (Annexure-1) and 13.03.2003 (Annexure-2) of the OA are also to the

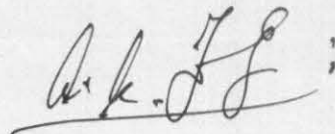


effect that applicant made an attempt to mislead the Railway Administration by claiming himself to be of Scheduled Tribe. There is no categorical 'charge' as such regarding submission of forged/fake certificate of scheduled caste/scheduled Tribe.

5. In view of the above we find that aforementioned mentioned impugned orders cannot be sustained as applicant was not given opportunity to make the charge for which he is punished. Accordingly, we set aside impugned order dated 22.3.2002 and 13.03.2003.

6. OA stand allowed with the above observations. No Costs.


Member-A


Member-J

/ns/