

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.739 of 2004.

Allahabad this the 17th day of December 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member-A.

M.S. Lal A/A-52 S/o Late Mangroo
R/o C/102/726, Char Phatak Road,
Mohaddipur, Gorakhpur.

.....Applicant.

(By Advocate : Sri Amit Sthalekar)

Versus

1. Union of India
through Secretary
M/O Science and Technology,
Mehrauli, New Delhi.
2. Director General,
Meterology Mausam, Bhawan,
Lodi Road, New Delhi.
3. Dy. Director General,
Meteorology, R.M.C. Building
Lodi Road, New Delhi.
4. Dr. L.D. Agrawal,
Enquiry Officer,
Palam Air Port,
New Delhi.

.....Respondents.

(By Advocate : Sri Saumitra Singh)

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

Heard Sri Amit Sthalekar learned counsel for the applicant and Sri Saumitra Singh learned counsel for the respondents and perused the records.

2. While working as Assistant Meteorologist Grade 2, the applicant was served with the charge memo dated 1.6.2000, containing the following charges :-

"Article :-Shri Madhusoodan Lal, Assistant Meteorologist Grade-II obtained initial appointment in the post of Senior Observer in India Meteorologist Department in 1974 under Scheduled caste quota by submitting a false certificate of caste according to which he belongs to Beldar community of Village Darwachatur Tehsil Khazni, District Gorakhpur (U.P.).

As per provisions contained in MHA O.M. No.5/1

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65-Estt (D) dated 30.4.1965 producing false information or suppression of factual information are cases of fraud. As such, Shri Madhusoodan Lal, Assistt. Meteorologist Grade-II has committed a fraud case, criminal misconduct and adopted illegal means in selection to the post of Senior Observer in 1974 in I.M.O. By the above act, Shri Madhusoodan Lal, Asstt. Meteorologist Grade-II has cheated the Government by fraudulent means thus exhibiting dishonesty peccable integrity and gross misconduct unbecoming of a Govt. Servant violating Rule 3 (1) of Central Civil Services (Conduct) Rules, 1964".

3. The Enquiry Officer found the charges framed against the applicant established and submitted his report. A copy of report was furnished to the applicant who submitted his explanation as against the enquiry report. However, the Disciplinary Authority agreed with the finding recorded by the Enquiry Officer and held that the applicant guilty for submitting a false certificate of caste and securing appointment as Scheduled Caste candidate. Accordingly, by impugned order dated 27.10.2003, imposed on the applicant the penalty of removal from service as specified under Rule 11 (viii) of CCS (CCA) Rules. Aggrieved against the said order passed by Disciplinary Authority, the applicant preferred an appeal on 14.11.2003. Later-on he submitted an Additional Appeal vide letter dated 27.12.2003 and the appeal, it is stated by Sri Saumitra Singh, Learned Senior Standing Counsel is still pending. It has been submitted by Sri Amit Sthalekar, learned counsel for the applicant that Civil Court has declared that the applicant belongs to Beldar community and acting upon the decree passed by Civil Court, the Competent Authority has issued a certificate dated 23.12.2003. Civil Court decree and certificate were produced before the Disciplinary Authority while certificate has been filed alongwith the additional memo of appeal preferred by the applicant. Sri Saumitra Singh, learned Senior Standing Counsel of Union of India submits that the decree passed by Civil Court is not binding on the department inasmuch as the Departmental Authorities were not impleaded as defendants to the declaratory suit

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by the applicant and, therefore, the certificate issued on the basis of the decree is of no avail.

4. Having heard counsel for the parties and having regard to the fact that the applicant has furnished additional documents before the Appellate Authority it would apt and proper to dispose of the O.A. with the direction to the Appellate Authority to decide the appeal in accordance with law after taken into reckoning the Civil Court decree dated 16.07.2002 declaring that the applicant belongs to Beldar Community. It would be open to the department to raise such pleas as may be open to it in law.

5. Accordingly, the OA is disposed of with a direction to the Appellate Authority to consider and decide the appeal preferred by the applicant by means of speaking and reasoned order within a period of six months or from the date of receipt of a copy of the order.

Dharmendra
Member (A)

Q&Q
Vice Chairman

Manish/-