

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.393/2021

Date of Decision:12.07.2021

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Shri Vighanesh Mohan Nakhawa
Age 35 years, Son of Mohan Nakhawa
Working as, Postal Assistant,
Andheri Head Post Office,
Mumbai - 400 053.
Residing at:201 178,
Laxmi Mata Niwas, Buga Galli,
Dand-Pada Khar (West),
Mumbai - 400 052
Mobile No.9867456131
Email id:vighneshmnl78@gmail.com

... Applicant

(By Advocates Shri Vishal Shirke alongwith Shri
Hitanshu Jain)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of communication,
Department of Post,
North Block,
New Delhi - 110 001.
2. The Senior Superintendent of
Post Offices,
Department of Post,
Mumbai North Division,
Vile Parle East,
Mumbai - 400 057.
3. The Post Master,
Andheri Head Office,
D.N. Nagar, New Link Road,
Andheri West,
Mumbai - 400 053.

... Respondents

(By Advocate Ms. N.V. Masurkar)

Proceeding conducted through videoconferencing with
consent of counsels for the parites

ORDER (ORAL)

Per: Ravinder Kaur, Member (J)

Present:

Shri Vishal Shirke alongwith Shri Hitanshu Jain, learned counsels for the applicant.

Ms. N.V. Masurkar, learned counsel for the respondents.

2. Heard Shri Shirke on admission.

3. Vide present OA, the applicant is seeking the following reliefs:-

"8(a) This Hon'ble Tribunal may graciously be pleased to call for records of the cases from the respondents and after examining the same, quash and set aside the Memorandum of chargesheet dated 27.03.2021 alongwith the entire disciplinary proceedings conducted in pursuance of the said Memorandum of Charge-sheet dated 27.03.2017.

(b) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

4. Shri Shirke submits that the applicant was appointed on the post of Postal Assistant w.e.f. 28.04.2008. On 27.03.2017, the applicant was served with the chargesheet (Annex A-1) with the allegations that he was selected to the cadre of Postal Assistant(outsider quota) against the backlog of vacancies of SC/ST for the year 2005 on the basis of his claim that he belongs to ST category. He submitted a caste certificate which was held to be invalid by

Scheduled Tribe Certificate Scrutiny Committee, Konkon Division, Thane.

5. It is the case of the applicant that the enquiry was conducted against the applicant and the same has already been concluded on 14.06.2021 and the copy of the same has been supplied to him. Now the matter is pending before the Disciplinary Authority for further action.

6. The applicant has challenged the disciplinary proceedings on the ground that the same are illegal and that the applicant has not played any fraud in procuring the caste certificate, nor he misrepresented the respondents. He submitted the said certificate under bonafide belief that the same was valid. However, it was declared invalid by the Caste Scrutiny Committee vide order dated 18.11.2014.

7. It is observed that the disciplinary proceedings against the applicant are yet to be concluded. The Hon'ble Apex Court vide its order dated 23.11.2012 in the case of Chairman, LIC of India & Ors, Vs. A. Masilamani in Civil Appeal No.8263/2012 held that Courts/Tribunals are not competent to quash the chargesheet and related disciplinary proceedings before they are concluded.

8. In view of the settled proposition of law, we are of the opinion that this OA cannot be admitted at

this premature stage for adjudication by the Tribunal.

At this stage, Shri Shirke seeks to withdraw the OA.

8. In the circumstances, the Original Application is dismissed as withdrawn. MA No.348/2021 stands closed. No order as to costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

ma.

JD
13/07/