

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
CIRCUIT SITTING
AT NAINITAL

Original Application No. 1178 of 1995

Nainital this the 24th day of October, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, Member (A)

R.S. Rawat, Aged about 54 years, Son of Late Sri Indra Singh Rawat, Qr.No.4, Landour View, Cottage No.4, Mussoorie-248179.

Applicant

By Advocate Shri K.C. Sinha

Versus

1. Union of India through Secretary, Government of India, Ministry of Science & Technology Technology Bhawan, New Mehrauli Road, New Delhi-16.
2. Surveyor General of India, Surveyor General Office, Hathi Barkala Estate, P.B. No.37, Dehradun, U.P.- 248001.
3. Director, North Western Circle, Survey of India, Sector-32 A, CHANDIGARH-160047.
4. The Chairman, National Commission, For Scheduled Caste/Scheduled Tribes, NEW DELHI-3, Lok Nayak Bhawan, Vth Floor(added)

Respondents

By Advocate Shri R.C. Joshi

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the order dated 06.08.1981(annexure A-6) and 19.12.1994(annexure A-13). The applicant has ...pg.2/-



also prayed for a direction to the respondent no.1 to 3 to give promotion to the applicant on the post of Surveyor (Selection Grade), Officer Surveyor and Superintending Surveyor prior to the promotion of his junior Shri S.D. Semwal.

2. The facts giving rise to this application are that the applicant was recruited as Topo Trainee Type 'A' in Group 'C' post in Survey of India and ^{he} joined in Northern Circle with effect from 01.12.1964 against a general vacancy. The applicant at that time did not declare that he is a Scheduled Tribe candidate. The applicant belongs to Bhotia caste of Village Jalath Tehsil Musiyari in District Pithoragarh. The President of India vide Notification dated 24.06.1967 included Bhotia as Scheduled Tribes in relation to State of U.P. The applicant subsequently submitted a certificate dated 09.06.75 issued by District Magistrate, Pithoragarh that he belongs to Bhotia caste and he is a S.T. candidate. This certificate was filed on 11.02.1976. The department took steps to ascertain the correctness of the certificate filed by the applicant and on being satisfied that applicant's claim is genuine, made an endorsement in his service record under order dated 17.5.1978 that he belongs to S.T. ^{or} community. Thereafter on change of his status, the applicant was granted all benefits as available under the rules w.e.f. 1979, which is not disputed. The grievance of the applicant is that as the certificate ^{was} given by the applicant on 11.02.1976, he should have been given the benefits from the date of his filing the application alongwith certificate and not from 1979.




It is also claimed that the person junior to the applicant was granted promotion earlier on the basis of his being a S.T. candidate and the applicant's claim was ignored. It is also submitted that respondents took unusually long time in ascertaining the correctness of the certificate and for this the applicant may not be allowed to suffer. Learned counsel for the respondents on the other hand submitted that the certificate filed by the applicant in 1976 and thereafter inquiry was conducted and the endorsement was made in his service record under order dated 17.05.1978. The time taken was reasonable and the applicant has been granted all the benefits which were admissible to him after he raised the claim and no interference is required by this Tribunal as the applicant has already retired from service.


3. We have carefully considered the rival ~~submissions~~ submissions of the counsel for the parties.

4. It cannot be disputed that Bhotia community was declared and included in the Schedule as Scheduled Tribe caste by the Presidential Notification dated 24.06.67. The applicant, however, raised the claim by making an application on 11.02.1976. On inquiry his claim has been found genuine and correct. The question is whether the benefit for which he ^{was} found entitled should be given from the date he raised the claim or from the date the respondents were satisfied after inquiry that the claim raised is genuine. In our opinion, if the claim was found genuine, the benefit should be given from the back

back date i.e. from the date he raised the claim. Two years time taken by the respondents in verifying the correctness of the certificate is also unusually long. This could have been within a reasonable period of 3 and 4 months. For the delayed and slow action of the respondents, the applicant cannot be allowed to suffer. Thus, the applicant is entitled for the relief.

5. The @.A. is accordingly allowed in part. The respondents are directed to give the benefit to the applicant notionally w.e.f. 11.02.1976, the date on which the application alongwith caste certificate was filed. As the applicant has already retired, the pension of the applicant shall be re-calculated and shall be paid including ~~with~~ ^{all} arrears. No order as to costs.


Member (A)


Vice Chairman

/M.M./