

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 6th day of June, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj. Gen. K.K. Srivastava , A.M.

Orginal Application No. 1241 of 1995.

Bachchharaj S/o Sri Budhoo

R/o Vill. Mamrejpur, Post- Rewari,  
Distt. Fatehpur.

.....Applicant.

Counsel for the applicant :- Sri W.H. Khan

V E R S U S

1. Staff Selection Commission (CR)

through the Regional Director, 8A-B,  
Beli Road, Allahabad.

2. Regional Director (CR), Staff Selection  
Commission, 8A-B, Beli Road, Allahabad.

3. Union of India through the Secretary,  
Ministry of Personnel, Public Grievance and  
Pension, New Delhi.

.....Respondents.

Counsel for the respondents :- Sri P. Mathur

O R D E R (Oral)

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

By this application under section 19 of the  
Administrative Tribunal's Act, 1985, applicant has  
challanged the order dt. 18.09.95 by which candidature  
of the applicant for selection in 1993 examination for  
the post of Divisional Accountants/ Auditors/ U.D.Cs



held by Staff Selection Commission (SSC), has been cancelled.

2. Facts in short are that the applicant submitted in his application form for appearing/the aforesaid selection. The applicant belongs to Scheduled Cast (SC) category (caste Pasi). However, in the application form in column No.6 he tick marked against Sl. No. 2 meant for Scheduled Tribe (ST). In the block provided, he also mentioned category 2. On the basis of this information, given by the applicant, his name was entered as SC candidate. When the applicant received the admit card, a copy of which has been filed as annexure A- 2, then he noticed that he has been shown as candidate belonging to ST category. The written examination was held on 13.03.94. Immediately, thereafter, applicant made an application on 22.03.94 and requested that the error may be corrected and he may be treated as SC candidate. Alongwith this application, he also forwarded the caste certificate. The receipt of this letter has not been denied. By letter dt. 30.05.95, respondents summoned the applicant to attend the office within 10 days. In response to this letter, applicant appeared on 20.06.95 and gave declaration that he belongs to SC category but his result has been shown amongst ST candidates. The respondents, however, by impugned order dt. 18.09.95, cancelled the candidature, aggrieved by which applicant has approached this Tribunal. Learned counsel for the applicant has submitted that the mistake committed by the applicant was bonafide mistake. He unfortunately tick marked against No. 2 for which he should not be penalised. Learned counsel has further submitted that the mistake was noticed on receipt of the admit card and without loss of much time, applicant gave application on 22.03.94 with a caste

certificate. A copy of application has been filed as annexure- 3. Receipt of this application is not denied. In the circumstances, applicant has already approached the respondents for correction of the error much before declaration of the result. When respondent No. 2 summoned the applicant vide letter dt. 13.05.95, he again appeared and stated truth that he is SC candidate and not ST candidate but the respondents illegally cancelled the candidature instead of assessing his merit in the examination amongst SC candidates.

Sri Prashant Mathur, learned counsel for the respondents on the other hand has submitted that the applicant incorrectly mentioned his reserved catagory. It could not be termed that the respondents have committed any mistake. The catagory which he was not supported by any document. In the facts and circumstances, the order is fully justified and does not suffers from any error of law. Sri Mathur has also submitted that the declaration once given is unequivocal and could not be subsequently corrected.

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

4. In our opinion, in such matters the respondents should take care <sup>to ascertain</sup> as to whether the mistake committed by the applicant was a bonafide, or he wrongly mentioned his reserved catagory deliberately to take unfair advantage. It is not disputed that the applicant is a SC candidate and belongs to caste Pasi. He could not have got any extra advantage by mentioning himself as ST.

His bonafide is further established that he made application without loss of much time on 22.03.94 duly supported by cast certificate, issued by Tehsildar.

The applicant has specifically asserted in para 10 that he is SC candidate and he filed SC certificate issued by competent authority. It is also claimed that <sup>upon</sup> ~~since~~ receipt of admission card, he realized his mistake and submitted caste certificate on 22.03.94. Averments made in para 4-10 have not been denied. If the applicant before declaration of the result had applied for the correction of mistake, we do not see any justifiable reason on the part of the respondents to turn down the request of the applicant. At subsequent stage, the respondents summoned the applicant for clarification of the mistake. Once mistake was noticed and applicant availed the opportunity to correct the same by furnishing the application, in our opinion, he should not have been denied this opportunity. We do not find any justifiable ground for cancelling the candidature. The simple exercise, by assessing the merit of the applicant on the basis of the marks secured in the examination, <sup>95</sup> ~~wrongly for SC candidates~~, would have solved the matter. We have carefully examined/the documents. We do not find <sup>anything</sup> on which basis it may be contended that the mistake committed by the applicant in any way, was malafide.

5. For the reasons stated above, we find that applicant is entitled for the relief. The O.A is allowed. The impugned order dt. 18.09.1995 (annexure- 1) is quashed. The respondents are directed to assess the merit of the applicant alongwith SC candidates and if he is found successful, he should be adjusted against any existing ~~or~~ future vacancies. We further make it clear that the applicant will not be entitled for seniority etc. or appointment from back date. As the matter is old, the order shall be complied with expeditiously if possible within six months.

6. There will be no order as to costs.