

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.29 of 2003.

Allahabad this the 01st day of December 2004.

Hon'ble Mrs. Meera Chhibber, Member-J.

Hon'ble Mrs. Roli Srivastava, Member-A.

Pawan Kumar
Son of late Sri Shiv Ram Singh Verma
Resident of Village and Post Jharautha (Baldev)
District Mathura.

.....Applicant.

(By Advocate : Sri Pankaj Shukla)

Versus

1. Union of India
through Secretary
Ministry of Communication,
Department of Postal, New Delhi.
2. Postmaster General, Agra Region,
Agra.
3. Sri Sanjay Kumar
S/o Sri Laxmi Narain
Resident of Village and Post
Barauli, District Mathura.
4. Sub Divisional Inspector (East) Sub
Division, Mathura.

.....Respondents.

(By Advocate : Sri R.K. Tiwari/
Sri R.B. Singh)

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By Hon'ble Mrs. Roli Srivastava, Member (A)

This case was listed for hearing on 01.12.2004. On 01.12.2004, none appeared for the applicant even in the revised call. However, it was submitted by learned counsel for the respondents that this is a covered matter. We have, therefore, exercised our discretion and have heard the case to decide it on merits by attracting Rule 15 (1) of C.A.T. Procedure Rules, 1987.

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2. By this O.A., filed under Section 19 of Administrative Tribunal Act, 1985, the applicant has challenged the order of terminating of service dated 27th September 2002 passed under the provision of Rule 8 (1) of P&T GPS (Conduct and Employments) Rule, 2001 by the Sub Divisional Inspector of Post Offices, Mathura, East Sub Division, Mathura.

3. The facts, in brief, are that the applicant who belongs to the 'Jat' community was offered provisional appointment on 09th October 2001 to the post of G.D.S (Mail Carrier), Barauli (Baldev), Mathura. In the offer of appointment he was informed that the provisional appointment was liable to be terminated at any time without notice and without assigning any reason by the Appointing Authority. After he accepted the offer he was appointed by order No. A/Barauli/Rectt./01-02/Mathura dated 19.10.2001. On 1st July, 2002, the Department of Posts, vide its letter No.17-29/2002-GDS clarified after due consultation with the Ministry of Social Justice and Empowerment, Government of India, that 'JAT' caste/community was not included in the Central list of O.B.Cs in Uttar Pradesh and persons belonging to this community in the State of Uttar Pradesh are not entitled to get benefits of reservation in civil posts and services under the Central Government. On the basis of the clarification received from the Department of Posts a show cause notice was issued to the applicant ^{and} ^{and} after ^{and} due consideration of the representation of the applicant dated 22nd July, 2002 his appointment was cancelled by order dated 27th September 2002 and his services terminated forthwith by Sub Divisional Inspector of Post Offices, Mathura, East Sub Division.

4. The applicant has challenged the impugned order dated 27th September 2002 on the ground that he was the

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most suitable candidate for the said post as he had obtained 71.5% marks in the High School more than Shri Sanjay Kumar, respondent No.3 and also belonged to the OBC category under the Government of Uttar Pradesh's Ordinance No.18 dated 15th September 2001 under which the 'Jat' community is shown in the O.B.C. category.

5. The respondents submitted that the vacancy for the post of G.D.S.(Mail Carrier) Agra were strictly meant to be filled by an O.B.C. candidate in accordance with the permission accorded by the Senior Superintendent of Post Offices, Mathura vide his letter dated 06.08.2001. The applicant was selected and appointed on account of the fact that he had obtained higher marks than others and had submitted an O.B.C. caste certificate issued by Tehsildar, Mathura. Subsequently a representation was submitted to the Post Master General by another candidate Sri Sanjay Kumar challenging the appointment of the applicant on the ground that the applicant Sri Pawan Kumar belonged to the 'Jat' community which is not recognised as O.B.C for Central Government Services. Sri Sanjay Kumar (a respondent No.3 in this O.A.) had also filed before this Bench an OA No.188/02 which had been disposed of on 22.02.2002 with a direction to the Post Master General, Agra to examine and decide the representation of Sri Sanjay Kumar after giving personal hearing to him and Sri Pawan Kumar who was respondent No.6 in the said OA. The Post Master General, Agra after giving personal hearing on 13th June 2002 to him and the applicant, Sri Pawan Kumar found that the applicant, who had been appointed as G.D.S.(Mail Carrier) belongs to 'Jat' caste which does not fall under the O.B.C. category for the purpose of appointment in Central Government as 'Jat' caste does not figure in Appendix II vide D.O.P.T OM No.36012/31/90-Estt (SCT) dated 13.08.90 and Government of India, Ministry of Social Welfare Resolution No.12011/

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68/93-BCC dated 19th September, 2003. Accordingly he found the appointment of the applicant to be irregular. The Post Master General, therefore, directed the authorities concerned to accordingly take necessary action as per Govt. of India Rules on the subject. Thereafter another OA filed by the applicant, challenging the same order dated 20th June 2002 before this Tribunal was also dismissed as infructuous on the submission of the applicant that the issue had already been decided by the Principal Bench of the Central Administrative Tribunal, New Delhi in O.A. No.1758/02. Thereafter the applicant filed a writ petition before the Hon'ble High Court of Judicature at Allahabad for quashing the order dated 12.07.2002 passed in O.A. No.1758/02 by the Principal Bench of the Central Administrative Tribunal. This writ petition was dismissed summarily at the admission stage itself by the Hon'ble High Court by its order dated 26th September 2002 with the following finding that the post claimed by the applicant is in the Central Government and the Central Government has not recognised 'JAT' as Backward Class. The mere fact that 'Jat' caste has been declared as Backward Class in the U.P. State cannot confer any benefit upon the petitioner.

6. During the course of hearing, the respondent's counsel submitted that a similar issue had already been decided by this very Bench in the case of Sri Sushil Parihar Vs. Union of India and others O.A. No.3301/02 ^{wherein} dated 27.08.2002 within it had been held that :

"As regard the fact that the applicant belongs to JAT community which has a reservation benefit as per the U.P. Government is concerned, the same has no applicability for the post under the Central Government as the JAT community has not been listed as a OBC community by the Central Government particularly by the DOP&T, Ministry of Personnel which is the nodal Ministry for all such type of cases".

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It was further submitted that this decision was confirmed by the Hon'ble High Court of Judicature, Allahabad dated 05.12.2002. In this order their Lordships dismissed the writ petition with the following observation :-

"We see no reason to interfere with the judgment and order dated 27th August 2003, Writ Petition is dismissed for the reason that the petitioners services belongs to the Central Government and not to the State".

6. We have heard the counsel for the respondents and have also perused the material on record.

7. It is seen that this very issue has been examined any number of times by different Court not only in O.A. No.3301/02 in the case of Shri Sushil Parihar cited above but also in the applicant's own case. We have carefully examined the facts and circumstances in the judgment in the aforesaid case of Sushil Parihar Vs. Union of India and others and find that the issue raised in the instant case is identical. Hence the same is squarely covered by this judgment. Moreover in the applicant's own case, when this issue was raised in writ petition No.400540/2002 their Lordships of the Hon'ble High Court of Judicature, Allahabad have held by their order dated 26th September 2002 that "the post claimed by the petitioner is in the Central Government and the Central Government has not recognised 'JAT' as Backward Class. The mere fact that the JAT has been declared as Backward Class in the U.P. State cannot confer any benefit upon the petitioner".

8. We have therefore no hesitation in stating that so far as the applicant is concerned the legal position stands concluded and there is no scope of interference in the impugned order dated 29.07.2002. The O.A. is dismissed with no order as to costs.

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