

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

O.A. 359 of 1997

Date of order: 29.07.2004

M.A. 336 of 2003

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.
Hon'ble Mr. N.D. Dayal, Administrative Member.

Bidhan Ch. Mondal

- v e r s u s -

Union of India and Ors.
(C.L.W.)

For the applicant : Mr. S.K. Dutta, counsel.

For the respondents : Mr. P.K. Arora, counsel.

O R D E R

Per Justice B. Panigrahi, VC.

Before commencement of hearing of the case 1d. counsel appearing for the original applicant has submitted that he would not press the relief No.1 which is as follows:-

"8. i) To declare that the applicant belongs to Scheduled Caste Community being 'Sunri' of the State of West Bengal and the Caste Certificate issued by competent authorities stand good."

Accordingly, this prayer is directed to be deleted.

2. The applicant was engaged as a Khalasi on casual basis in C.L.W. Chittaranjan in the year 1979. He was subsequently regularised in the said post of Khalasi on and from 13.1.1981. During his employment he secured promotion to the post of Mechanical Fitter Grade-III under S.S./KRS., CLW, Chittaranjan. He also has claimed to have been qualified in the trade test for the post of Fitter Grade-II. But thereafter he was not given promotion to Fitter Gr.II. Instead some of his juniors have been promoted.

3. The applicant has claimed to have belonged to 'Sunri' community which is treated as scheduled caste of W.B. The applicant's father was a resident of village Footberia, District-Dumka, Bihar at present in Jharkhand State. His father has migrated to Sonali, which is within Burdwan district of W.B. prior to joining service in C.L.W. There was some doubt regarding the applicant's caste 'Sunri' which he is claiming to have included in W.B. Schedule as SC category. The authorities have raised the doubt since the applicant is not a permanent resident of W.B., therefore, civil authorities of W.B. are not competent to grant him such certificate. Be that as it may, since such point cannot be adjudicated by the Tribunal, it is left open to the civil authority to hear and decide the dispute regarding 'sunri' caste as the applicant is claiming in this case.

4. Mr. Arora, 1d. counsel appearing for the respondents has submitted that the respondents have referred the matter to the civil authorities to decide as to whether the applicant belongs to 'Sunri' caste or not and in the aforesaid matter, the applicant was asked to submit a show cause. At this stage, the applicant has filed a writ petition being W.P. No. 6429(w)/2004 which is sub-judice before the Hon'ble High Court. It is learnt that in the aforesaid case, the Hon'ble High Court has passed an interim order staying the further proceeding pending before the civil authority. Accordingly, no further progress could be made by the civil authorities for determining the caste which the applicant claims to have belonged.

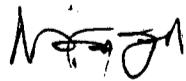
5. It appears that the respondents simultaneously started a disciplinary proceeding in which charges have been framed and the applicant was asked to submit his statement of defence. In the meanwhile, the enquiry is complete awaiting

the final result of the proceeding. The disciplinary proceeding could not proceed further. There was an interim order passed by this court on 1.10.97 which is continuing till date.

6. Upon hearing 1d. counsel for both parties and on persual of the grounds of the application as well as the reply, the only pivotal issue which has to be answered in this case is as to whether the applicant is belonging to 'Sunri' caste which has been included in the schedule of W.B. as a SC category. Such question cannot be answered by the Tribunal possibly. The respondent authorities cannot also directly answer such issue. Therefore, they had referred the matter to the civil authorities for their views. In the meanwhile, civil authorities have also suo moto initiated a proceeding against the applicant which has been stayed by the Hon'ble High Court. Therefore, the final outcome of the disciplinary proceeding depends upon the result of the answer to be given by the civil authorities with regard to the caste to which the applicant belongs.

7. Accordingly, we direct the respondents to wait till the finalisation of the proceeding in which the caste issue is involved and after finalisation of such issue, it is open to the authorities to conclude the disciplinary proceeding in accordance with law.

8. With the above observation the application is disposed of, and the M.A. which is for vacation and/or modification of I.O. is dismissed.



Member (A)



Vice-Chairman.