

CENTRAL ADMINISTRATIVE TRIBUNAL**JODHPUR BENCH, JODHPUR**

Original Application No. 105/2003
Date of Decision : this the 5th day of March, 2004.

Hon'ble Mr. J.K. Kaushik, Judicial member

Hon'ble Mr. M.K. Misra, Administrative Member

Uda Ram Meena S/o Sh. Chatara Ram by caste Meena
R/o Jaideep Bhawan, Ganesh Marg, Sumerpur, Distt. Pali,
Presently working on the post of Sub Post Master, Sumerpur.
[By Advocate Mr. Harish Purohit, for applicant]

.....Applicant.

versus

1. Union of India through Secretary to the Government of India, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Superintendent, Post Office Pali Division, Pali.
3. Post Master General, Rajasthan Western Region, Jodhpur.
4. Shri Mohan Lal Rathore S/o Shri Naindas, Sub Post Master, Desuri, Distt. Pali, R/o Choti Rani, Via Rani, Distt. Pali.

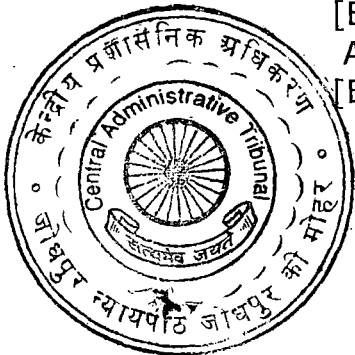
[By Advocate Mr. M. Godara, brief holder for Mr. Vineet Mathur Advocate, for respondents No. 1 to 3]

[By Advocate Mr. K.R. Deval, for respondent No. 4]

.....Respondents.

Order [Oral]

[By M.K. Misra, Administrative Member]



The applicant, Shri Uda Ram Meena, presently holding the post of Sub Post Master, Sumerpur, filed this Original Application, inter alia, praying for the following reliefs :-

"1. That the respondent No. 2 may kindly be directed to terminate the services of the respondent No. 4 implementing the recommendation of the District Collector, Pali after following the due process of law.

2. That respondent No. 2 may further be directed to reconsider the case of the applicant for the purpose of granting the L.S.G., H.S.G. etc. from the date when the

respondent No. 4 was given the benefit according to the respondent treating him senior to the applicant.

3. That any other relief to which applicant appears entitled to, may kindly also be passed in favour of the applicant.

4. That the cost of the original application may kindly be awarded to the applicant."

2. The case was listed for admission today and with the consent of both the learned counsel for both the parties, the same has been heard for final disposal at the admission stage. We have carefully perused the pleadings and the records of the case.

3. Briefly the facts of the applicant's case are, that respondent No. 4 Shri Mohan Lal Rathore, Sub Post Master, Desuri, Distt. Pali, got appointment in the Postal department on the basis of false certificate declaring him a Scheduled Tribe (S.T.) candidate, issued by the District Collector. The respondent No. 4 was appointed as Postal Assistant on 23.9.1968 as a S.T. candidate and was allowed the lower selection grade w.e.f. 23.9.1984 and higher selection grade w.e.f. 1.7.1992. It was further contended that the said Shri Rathore is immediate senior to the applicant in the higher selection grade. The bone of contention is that the respondent No. 4 entered into service on the basis of a certificate issued to a S.T. candidate by the District Collector which was later on found to be false in nature on an inquiry made by the District Collector of Pali. The District Collector of Pali, sent a letter to the Superintendent of Post Office, Pali, on 4.12.2002 (Annex.A/1) intimating that the fourteen persons including the



[Signature]



respondent No. 4 (who stands at Sl.No.1) named therein, did not belong to S.T. community. The District Magistrate also recommended that the services of persons at Sl.No. 1, 2 and 3, should be terminated and action taking report to this effect should be sent to the Tehsildar Desuri. On the basis of this letter dated 4.12.2002, applicant represented before the respondent No. 2 i.e. Superintendent, post Office, Pali Division, Pali, requesting that the respondent No. 4 should be removed from ST category and the promotion given to him treating him as a ST category, should be cancelled. Since the applicant was not informed by the respondent department about the action taken against the respondent No. 4, therefore, he has filed this O.A. for issuance of directions to the Postal authorities in the manner that respondent No. 4 is not a member of S.T. category yet pretending himself of being a member of such community and obtained employment and also availed all the benefits according to the length of service as per the reservation policy. Since the applicant was his immediate junior, therefore, all the benefits which were available to the employees of S.T. community were first availed by the said respondent thereby depriving the applicant from taking all the benefits which would have been available to him, had Shri Mohan Lal Rathore been terminated as being a general candidate on the basis of the findings of the District Collector in his report (Annex.A-1).

4. In the reply filed by the respondent No.2, it was contended that the instant O.A., on the face of it, is not

maintainable because the impugned order which the applicant has quoted, is a communication addressed to the Superintendent of Post Office, Pali and other authorities by the District Magistrate, Pali, and is absolutely an internal correspondence. It was further contended that order of the District Magistrate, Pali, regarding Caste Certificates obtained by several individuals including the respondent No. 4, will have no bearing as far as the applicant is concerned and it is the department who will take all necessary steps to deal with the issue in accordance with law. There is no dispute that respondent No. 4 was offered appointment only because he is a S.T. candidate and he was granted promotions under TBOP/BCR scheme.



5. It was further contended that the instant Original Application also is not maintainable because the same is not against any order passed by the respondent No. 2. The order of the District Collector, Pali, quoted above, will not have any bearing on the applicant because the promotions were granted to the respondent No. 4 under TBOP/BCR Scheme. On the other hand, the applicant was not eligible for any promotion on these dates i.e. lower selection grade w.e. f. 23.9.1984 and higher selection grade w.e.f. 1.7.1992. It was also alleged that prior to 1997 for promotion under TBOP Scheme, minimum service of ten years was required in postal assistant cadre for SC/ST categories. Similarly, for BCR Scheme promotion, seventeen years service were required in postal assistant cadre for SC/ST categories. This relaxation in length of service for postal

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assistants cadre has been removed w.e.f. 2.7.1997 vide Department of Posts letters dated 21.8.1997 and 20.5.1998 (Annex.R/1). The respondent No. 4 was promoted under BCR Scheme w.e.f. 1.7.1992 on a ST point whereas, applicant (21.3.1976 appointee) was not eligible for promotion under the BCR Scheme on that date as he has not completed minimum required service of seventeen years on 27.3.1992. It was also averred that the applicant had asked for supply of caste certificate of some employees including the respondent No. 4 from the respondent No. 2. The respondent No. 2 required the applicant to intimate the purpose for which the above information has been desired. The applicant did not disclose the purpose, hence, the request in his representation was not acceded to.



6. Regarding the fake certificate, it has been submitted that the matter was sent for inquiry under Rule 14 of the CCS (CCA) Rules, 1965 which is mandatory in nature to comply with the provisions of Articles 311 (2) of the Constitution of India. It was reiterated that there would be no change in the position of the applicant whatever is the out come of the inquiry with regard to fake certificate.

7. The respondent Shri Mohan Lal Rathore, in his reply to the Original Application, submitted that the applicant did not make the District Collector, Pali, a party in this case. The applicant also did not exhaust all the remedial channels available in the department. The applicant is not the immediate junior to the respondent No. 4. The respondent No. 4 is not 'Rangaswamy' by

caste but is 'Bheel' by caste and to this effect a certificate was issued by the SDM, Bali at the time of his appointment in 1968; the same certificate is available with the respondent No. 2 also. In support of his contention, the respondent No. 4 furnished few evidences such as death certificate of his father late Shri Nain Das, his mother Naju Devi, copy of Patta of residential plot issued by the Nagar Palika, Rani, etc.



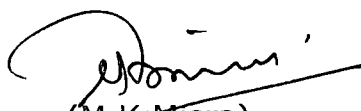
8. We have carefully considered the rival submissions of the learned counsels of the parties. We are of the considered view that the matter relating to procuring false certificate of caste, is the prerogative and is of jurisdiction of District Magistrate and the State Government i.e. the Government of Rajasthan. The respondent No. 2 i.e. the Superintendent of Post Office, Pali Division, Pali, has instituted an inquiry against the respondent No. 4 in the above affair under CCS (CCA) Conduct Rules and the outcome of such an inquiry is yet to come.

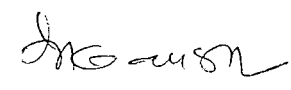
9. The respondent No. 2 at the cost of repetition averred empathically that the applicant was not eligible for promotion in various grades because, he did not complete the required number of years of service in a particular grade and even if, the finding of the inquiry comes against the respondent No. 4, there would be no change in the position of the applicant in any circumstances. Forgery in nature is a criminal act and the Indian Penal Code will take care of such an act of the respondent No. 4 as well as the concerned department i.e. respondent No. 2 has

already stated in their reply that they have started departmental inquiry against the respondent No. 4. Further, the respondent No. 4 who is the affected party, has also agitated in his reply on record, against the allegations made by the applicant as well as against the findings of the District Magistrate, Pali, stating therein, that he does not belong to 'Rangaswamy community' but, actually and definitely he does belong to 'Bheel community'. Thus, the issue is disputed one in nature.



10. The upshot of the aforesaid discussions is that we are left with no option except to reach an inescapable conclusion that this Tribunal has no jurisdiction over the controversy regarding determination of caste i.e. SC/ST and any inquiry in relation to such matter. Therefore, the Original Application cannot be entertained and the same stands dismissed for want of jurisdiction. However, this order shall not preclude the applicant from approaching the appropriate Forum for redressal of his grievances as may be available to him. No order as to costs.


(M.K. Misra)
Adm. Member


(J.K. Kaushik)
Judl. Member

Part II and III destroyed
in my presence on 23/10/13
under the supervision of
section officer () as per
order dated 18/10/2013

Section officer (Record)

Recd copy
for 15/10/13
C.K.R. DEVA 18/10/13
Resp no. 4.

Recd copy
for 18/10/13
for 18/10/13
18/12/104.