

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION: 8.12.1989

P R E S E N T

HON'BLE MR.N.V.KRISHNAN - ADMINISTRATIVE MEMBER

AND

HON'BLE MR.A.V.HARIDASAN - JUDICIAL MEMBER

ORIGINAL APPLICATION NO.11/89

K.J.M.Sathish,
John's Villa, Velicode,
Ooruttambalam P.O.,
Trivandrum - Applicant

-Versus-

1. The Union of India rep.
by its Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Staff Selection Commission,
(Southern Region),
Department of Personnel
and Training, EVK Sampath Bldg.,
IInd Floor, College Road,
Madras.6.
3. State of Kerala rep. by
The Chief Secretary,
Secretariat,
Trivandrum. - Respondents.

Mr.Pirappancode V.
Sreedharan Nair - Counsel for applicant

Mr.PA Mohammed,ACGSC - Counsel for respondents 1 & 2.

O R D E R

(Mr.A.V.Haridasan, Judicial Member)

In this application filed under Section 19
of the Administrative Tribunals Act, the applicant
prays that the order No.6/7/88-SR Vol.II dt.22.8.88
(Annexure-V) of the Regional Director, Staff Selection
Commission, stating that the applicant cannot be

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or

treated as Scheduled Caste may be quashed and that declaring that the applicant is a member of the Scheduled Caste w.e.f. 29.4.1984, the respondents may be directed to appoint the applicant as Preventive Officer as if Annexure.V order has never been issued. The facts of the case as set out in the application may be briefly stated as follows.

2. The applicant is an Ex-Serviceman. Pursuant to the notification issued by the Staff Selection Commission inviting applications to the post of Inspectors of Central Excise, Income Tax, Etc. the applicant also sent an application. He claimed to be a member of the Sambavar Community which is included in the list of Scheduled Caste and claimed the benefit of reservation. He came out successful in the written examination held on 30.8.1987 and was called for a personality test. In the intimation received by him calling upon him to appear for the interview, a copy of which is Annexure-III, he was asked to produce the certificate showing that he belongs to the Scheduled Caste. He appeared for the Personality test and he produced the certificates Annexure.VIII and IX in proof of the fact that he belonged to Scheduled Caste. The applicant was selected after the personality test to the post of Preventive Officer. A copy of the final result published by the Staff Selection Commission is at Annexure.IV. While the

applicant was awaiting orders of appointment pursuant to his selection, to his great disappointment he was served with Annexure-V letter of the Department of Personnel and Training, Staff Selection Commission informing him that he was declared unqualified in the examination as a Scheduled Caste cum Ex-serviceman candidate, as at the time of application for the examination he did not belong to the Scheduled Caste and that only subsequently he got converted into Hinduism and that therefore, he had no claim for appointment. The applicant has filed this application challenging the decision contained in Annexure-V. The applicant has in the application stated that conclusion arrived at by the authorities that the applicant got converted into Hinduism only after the date of submitting his application for the examination is not correct.

3. In the reply affidavit filed on behalf of the respondents, the Annexure-V order has been justified on the ground that in the final result published on 25.6.1988, the applicant was declared qualified in the above examination only subject to verification of his eligibility in all respects and that on verification it was found that the applicant was a Christian on the

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date of application and was reconverted into Hinduism only on a later date and that he was therefore, not entitled to be considered as a member of the Scheduled Caste for the purpose of the recruitment.

4. We have carefully gone through the documents produced by either side and have also heard the arguments of the learned counsel.


5. The learned counsel for the applicant vehemently argued that, since the final result of the examination was published by the Staff Selection Commission, only after verification of the certificates produced at the time of Personality Test, the Staff Selection Commission cannot be now heard to say that the applicant is not entitled to appointment. This argument does not appear to be correct. In Annexure-IV itself, it has been made clear that the selected candidates have been finally recommended for appointment "Subject to verification of their eligibility". From Annexure-IV it is seen that the applicant was selected against a reserved vacancy for Scheduled Caste, if on verification it is found that he did not belong to the Scheduled Caste then he would not be entitled to the appointment. Even according to the averments in the application, the parents

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of the applicant belonged to Sambavar Community of Hindu Religion who embraced Christianity. It is the case of the applicant that he got reconverted into Hinduism and had got readmitted into Sambavar Community long prior to the date of his filling the application for the competitive examination. To prove that, the applicant had converted himself into Hinduism and was accepted by the members of the Sambavar Community to their fold, the applicant had produced Annexure-VI to X and XII to XIV. Annexure-VI is the photostat copy of an application by the applicant to Kerala Sambavar Society for admission as a member which is seen to have been granted by the President and General Secretary of the Society. This application is dated 20.9.1984. This application discloses that the applicant had on 20.9.1984 applied for a membership for himself and his family in the society, but does not show that the applicant had got converted into Hinduism either on this date or any other prior date. Annexure-VII is a letter issued by the Office Secretary of the Lutheran Mission Compound, Balaramapuram, Trivandrum to the applicant on 1.1.1986 informing that his name had been removed from the Church records w.e.f. 1.1.1986, since he had expressed his change of faith from Christianity to Hinduism to join with his Sambavar-Hindu Caste which is

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one of the Scheduled Caste. This also does not prove that either on the date on which it was issued on or prior date the applicant had got himself converted into the Hinduism. Annexure-VIII is the photostat copy of a certificate issued by Arya Samaj, Trivandrum certifying that the applicant Sathish KJM who belonged to Sambavar Christian Community was admitted to Vedic (HINDU) Dharma after performance of Suddhi according to Arya Samaj rites and would be known thereafter as Sathish KJM. It is also seen certified that holder of the certificate belongs to Sambavar Community which is one of the Scheduled Castes. This certificate was issued on 4.8.1987 and is entitled Suddhi certificate. A reading of the certificate would show that till the date of performance of Suddhi, the applicant belonged to Sambavar Christian Community and that he was admitted to Vedic (Hindu) Dharma after the performance of Suddhi and that from then onwards he would be known as Sathish KJM. This indicates that the applicant has embraced Hinduism performing the Suddhi on 4.8.1987. Annexure-IX is a certificate issued by the Kerala Sambavar Society. It reads as follows:

"Certified that Shri SATHISH KJM, JOHNS VILLA, VELICODE, OORUTTANBALAM.P.O., NEYYATTINKARA, TRIVANDRUM DIST. holder of Mysore Secondary Education Examination Board, Certificate No. 014950 a Christian Convert from Scheduled Caste, on Conversion to Hinduism, has been accepted by us as one among the members of the Hindu Sambavar Caste, after becoming a member of the

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Kerala Sambavar Society. Now he in fact lives not as a Christian, but as a Hindu.

Also certified that the father of Shri SATHISH KJM belongs to the Sambavar Christian Convert from Scheduled Caste."

This certificate was issued on 5.8.1987. While Annexure-VI issued by Kerala Sambavar Society shows that the applicant and his family sought admission as members of the Society, Annexure-IX shows that the society accepted the applicant as one among the members of Hindu Sambavar Caste after becoming a member of the Kerala Sambavar Society. So his becoming a member of the society, ipso facto, did not make him a member of the community. It was only after he became a member of the society probably on reconversion to Hinduism that he was acknowledged as a member of the Sambavar Community of Hindu Religion on 5.8.1987. Further Annexure-X Gazette Notification shows that even according to the applicant he embraced Hinduism, only as per Suddhi certificate No.7230/87 dated 4.8.1987. The notification reads as follows:

"It is hereby notified for the information of all concerned authorities and public that I, Sathish KJM, S/o Mr. John, M.K. Johns Villa, Velicode, Doruttambalam.P.O., Neyyattinkara Taluk, Trivandrum District, holder of Secondary School Leaving Certificate Reg.No.014950 of having embraced Hinduism from Christian vide Suddhi Certificate No.7230/87 dated, 4.8.1987 through Arya Samaj, Trivandrum. This change will come into effect in all records related to me from the date of this Gazette Notification from 5.8.1987."

Annexure XII, the certificate issued by the Tahsildar, Neyyattinkara dated 7.3.1988 is to the effect that Shri Sathish KJM who belonged to Scheduled Caste Christian

Community by birth got converted into the Hinduism by certificate No.7230/87 dt.4.8.1987 of Arya Samaj, Trivandrum which has been published in the Kerala Gazette dt.22.9.1987 and that he had been accepted back to their fold and considered one among them, by the Kerala Sambavar Society and that therefore, Shri Sathish KJM belongs to Sambavar Community which is included in the list of Scheduled Caste in Kerala State. This certificate also shows that the applicant who was a Christian by birth had been converted to Hindu Religion only as per the Suddhi certificate dt. 4.8.1987, and that he had been thereafter accepted back by the Sambavar community to their fold and that, therefore, he belongs to the Schedule Caste. Annexure-XIII, a certificate issued by the Paster of the Evangelical Lutheran Church, Trivandrum only stated that the name of Shri KJM Sathish had been discontinued as member of the Church w.e.f. 1.1.1986 in his own request as he has changed his faith from Christianity to Hinduism to join his original Sambavar Community. This does not show that prior to the date of application, the applicant had got reconverted into Hinduism and accepted by Sambavar Community of Hindu Religion into their fold. Annexure-XIV is a certificate issued by President, Chinmaya Mission, Govindamangalam stating that Shri Sathish

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and the members of his family personally known to the person who issued the certificate for the past few years were abiding by the principles of Hinduism and had attended rites and rituals and participated in all the programmes since January, 1986. This also is not sufficient to establish that, before the application the applicant had formally been converted into Hinduism and was accepted by Sambavar Community into their fold.

Annexure-XV is a copy of the Brochure containing list of Scheduled Castes and Scheduled Tribes guide lines for verification of claims for issuing SC/ST Certificates.

It shows that a person who either profess Hindu or Sikh Religion, only can claim to be a member of a SC.

Along with the reply statement filed by the respondents the photostat copy of the application submitted by the

applicant before the Staff Selection Commission for admission to the examination has been produced. In

this application in answer to Item.7C, the applicant has declared himself to be a christian. It is an

unequivocal declaration by the applicant that he was a Christian on the date of his application. This and the various other documents which have been considered

above would show that the applicant was a Christian untill he got reconverted to Hinduism by performance

of Suddhi on 4.8.1987. Therefore, there is absolutely


no merit in the contention of the applicant that he


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belonged to the Sch. Caste on the date of his application and that the decision contained in Annexure-V that he was not qualified to be appointed, since he was not a member of the Scheduled Caste on the date of the application is illegal and unjustified.

6. For the reasons mentioned in the foregoing paragraph we are convinced that the decision of the Staff Selection Commission contained in Annexure-V, that the applicant did not belong to the Scheduled Caste category on the date of his application and that he got reconverted into Hinduism only thereafter, and that, therefore, he could not be treated as a Scheduled Caste Candidate is perfectly justified.

7. In the result we dismiss the application. In the circumstances of the case we do not make any order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(N.V. KRISHNAN)
ADMINISTRATIVE MEMBER

8.12.1989