

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 142
T.A. No.

1990

DATE OF DECISION 23.8.90

K. Babu Shetty _____ Applicant (s)

Mr. G. P. Mohanachandran _____ Advocate for the Applicant (s)

Versus

The Chief Post Master General, Kerala Circle, Trivandrum and others Respondent (s)

Mr. TPM Ibrahim Khan _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant who is working as Head Post Master, Kottarakara, has filed this application under Section 19 of the Administrative Tribunals Act challenging Annexure A-1 and A-3 orders, in effect, directing the applicant to produce a fresh community certificate to establish that he is a member of Scheduled Tribe and sustain all benefits he has obtained on that account.

2. The applicant who ~~was~~ entered the service of the Postal Department as a Clerk on 25.1.68 by producing necessary certificate of community was given further

promotion in Lower Selection Grade on 18.12.1981. He was posted as Public Relation Inspector at Kasargod Head Post Office in 1985. He was also given further promotion on 21.12.88 as Higher Selection Grade Post Master. Now he is working as Head Post Master at Kottarakara.

3. The respondents issued Annexure A-1 order informing the applicant that he should obtain a fresh community certificate from the Tahsildar countersigned by the District Magistrate within a month. There is no further details. There is no reason for the production of such a certificate. It is not clear from the order from which ^{or} ~~are~~ the specific authorities to be approached for obtaining the certificate and counter^usigning the same. In answer ^{to his} ~~to~~ the applicant filed Annexure-2 submitting that at the time of his original appointment he has produced necessary certificates issued by the competent authority to satisfy the appointing authority that he belongs to a ST community and it has been affixed in the service records. They are sufficient and no further certificates ^{were found} ~~are necessary~~ to satisfy the appointing authority. In fact the certificate produced by him was accepted by the respondents while appointing him. He was also given two other promotions by the respondents. The applicant ~~also~~ ^{also} stated that he also approached the Tahsildar, Kasargod as required in Annexure-I to get the certificate but he

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was not prepared to issue any fresh certificate. The applicant is helpless ^{and} under these circumstances ^{he filed his case.}

4. Considering Annexure A-2 the respondents issued the further impugned order at Annexure-3 threatening to withdraw all concessions granted to the applicant.

5. The respondents have filed a detailed counter affidavit producing Annexure R-1(A) O.M. dated 20.9.89 relevant portion of which reads as follows:

"The undersigned is directed to invite reference to the instructions contained in Chapter 13 of the Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Services (7th edition) on the subject mentioned above and to say that despite clear instructions to the effect that appointing authorities should verify the caste status of a Scheduled Caste/Scheduled Tribe Officer at the time of initial appointment and promotion against a reserved vacancy, instances have come to the notice of this Department where due to non-observance of these instructions the benefits meant for SC/ST candidates have gone to non SC/ST candidates thereby defeating the purpose of providing reservation for SC/ST."

6. In the counter affidavit it is stated that A-1 circular and Annexure-A(1) had been issued because of a complaint received by the Commissioner for SC & ST, New Delhi and hence a further verification as to whether the applicant really belongs to an ST community is necessary. Thus, the verification is necessitated on the basis of an anonymous complaint received in this behalf. However, it is not stated in the counter why they themselves have not conducted any enquiry on the basis of the complaint, after giving notice to the applicant. There is also no mention in the counter about the ^{Cancellation of his 1/2} original community

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certificate produced by the applicant and the entry in his service book at the time of his initial appointment in service, to necessitate a fresh verification.

7. Having heard the matter and after perusal of the records we see considerable force in the argument advanced by the applicant that the orders at Annexure A-1 and A-3 are illegal and unsupportable. The respondents have no case that the certificate originally produced by the applicant has been cancelled or the entry made in the service record is a false one. They did not conduct any enquiry after receipt of the alleged complaint. They have also no case that the certificate produced by the applicant cannot be accepted by them for granting promotions to him. In fact without raising any such objections the applicant was given ~~two~~ promotions.

8. The learned counsel for the respondents made a last submission relying on Annexure R-1(A) that verification is necessary not only at the time of fresh appointment but also at every stage of further promotions and under these circumstance the Annexure A-1 has been issued. This submission has no force on the facts and circumstances of this case. The applicant had been given ^{of same by} two promotions without fresh verification ^{as his caste} ~~as~~ in the light of Annexure R-1(A). We are satisfied that Annexure R-1(A) has no relevance in this case to support the action taken by the respondents.

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9. Having regard to the facts and circumstances of the case we are of the view that there is no merit in the submission of the learned counsel for the respondents and the impugned orders are unsupportable. Accordingly we allow the application and quash Annexure A-1 and A-3. There will be no order as to costs.

N. Dharmadevan
(N. Dharmadevan) 23.8.90

Judicial Member

N. V. Krishnan
(N. V. Krishnan) 23.8.90
Administrative Member

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