

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 251/90
TAXX06.

199

DATE OF DECISION 19.9.90

L Ushadevi

Applicant (s)

M/s R Rajasekharan Pillai & Advocate for the Applicant (s)
KT Thomas

Versus

Union of India rep. by the Respondent (s)

Secretary to Government,
Ministry of Communications,
New Delhi & 2 others.

Mr TPM Ibrahim Khan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Shri NV Krishnan, Administrative Member.

The applicant, a Postal Assistant, has been removed from service by the order dated 7.3.90 (Annexure-J) passed by the Director of Postal Services, Cochin in exercise of her sub-moto powers of the revision under Rule 29(v) of CCS(CC&A) Rules, 1965 on the ground that the applicant had secured employment with effect from 14.4.1979 by making a false claim that she belonged to a Scheduled Tribe community. This application, therefore, seeks to quash the Annexure-J order and direct the respondents to reinstate the applicant with consequential benefits. The applicant also seeks a declaration that she belongs to the "Hindu-Konda Reddi Community" which

is one of the Scheduled Tribes in Kerala.

2 The brief facts of the case leading to this application can be mentioned as follows:

2.1 Admittedly, the applicant was given employment as a Postal Assistant w.e.f. 14.4.79 against a vacancy reserved for Scheduled Tribes, on her submission that she belonged to the 'Hindu-Konda Reddy Community' which is a Scheduled Tribe in Kerala. However, it was noticed at that time that the SSLC Book showed her caste as 'Reddiar'. The applicant ~~had~~ was therefore, asked to produce the community certificate and accordingly she produced the Annexure-A certificate issued by the Deputy Tahsildar, Mavelikkara on 23.6.78 stating that she belonged to the 'Hindu-Konda Reddiar Tribe', whereupon she was appointed.

As this was not in the prescribed form, she produced Ann. A1 certificate

2.2 Subsequently, a complaint was received from Shri one K Bhaskaran Nair that the applicant had submitted a false community certificate that she really belongs to the 'Reddiar Community'.

2.3 Enquiries were, therefore, made by the Office Assistant Superintendent of Post Offices (Vigilance) in the of the Post Master General of Kerala Circle and the respondents state that it was found that the community certificate produced by her was false one.

2.4 Thereafter, an enquiry was made by the District Collector, at the request of the respondents Alleppey and by the Annexure RI letter dated 14.3.88,

(Annexure R1-A)

he informed the Superintendent of Post Offices,

Alleppey (Annexure R1-A) that while 'Konda Reddiars'

are Scheduled Tribes, Shri Lakshmana Reddiar, the father

of the applicant is a person who has migrated to Kerala

from Tamilnadu and ~~is~~ ~~not~~ belongs to 'Reddiar Community'

which is not a Scheduled Tribe. It was further intimated

that the officials who gave a false community certificate

stating that the applicant belonged to Scheduled Tribe

punished in

have been ~~published~~ ~~in~~ ~~the~~ disciplinary proceedings

which has been upheld in appeals by the Board of Revenue

and the State Government.

enquiries,

2.5 On the basis of these ~~enquiry~~, disciplinary

proceedings were initiated against the applicant on

7.12.88 by the Superintendent of Post Offices, Mavelikkara

(Respondent-3) on the charge that she secured ~~an~~ employment

as Postal Assistant against a vacancy reserved for

Scheduled Tribe by producing a false certificate claiming

that she belonged to Konda-Reddy Community which is a

Scheduled Tribe, though she actually belonged to the

Reddiar Community.

2.6 An Enquiry Officer was appointed to inquire

into the charges ~~xxx~~. After detailed inquiry, the Enquiry/

officer reported that the prosecution has not been succeeded in proving the ~~xxxxxx~~ charge against the applicant. This finding was accepted

by the Disciplinary Authority by his order dated 20th

September, 89 (Annexure-G) and exonerated the applicant.

2.7 However, the Director of Postal Service, Cochin

who is the Appellate Authority, felt that the case has

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been decided improperly and accordingly he initiated suo-motu revision proceedings under Rule 29(v) of the CCS(CC&A) Rules, 1965 and issued a notice in this behalf to the applicant on 16.1.90 (Annexure-H). The applicant submitted a representation (Annexure-I). After considering the representation, the Director of Postal Services (Respondent-2) passed the impugned order dated 7.3.90 (Annexure-J) removing the applicant from service.

3. The applicant has assailed the impugned order on the ground that the Collector, Alleppy on whose report (Annexure-R1(a) the disciplinary proceedings were initiated did not, at any time, give the applicant an opportunity to establish her claim that she belonged to a Scheduled Tribe i.e., 'Konda Reddy Community'. The entire proceedings are vitiated by the fact that the principles of natural justice have not been observed in imposing this punishment on the applicant. It is further submitted that the applicant's brothers and sisters have also obtained similar community certificates in their favour. (Annexure A4 is such a community certificate given by the Village Officer, Mavelikkara to the applicant's sister and therein it is stated that the applicant's family is residing in Mavelikkara for more than 10 years after migrating from Naguneri Taluk of Tirunelveli District. Correct information about the caste would therefore, have been available in Tirunelveli District, the ancestral home.

The applicant's counsel, therefore, stressed that a certificate issued by a competent authority in Tirunelveli should acquire considerable importance as far as this case is concerned. The applicant has filed Annexure A2 certificate issued by the Deputy Collector (Land Reforms), Tirunelveli stating that Shri Ananda Krishnan S/o Lakshmana Reddiar of Naguneri Taluk, Tirunelveli District belonged to 'Hindu Konda Reddy Community' which is recognised as a Scheduled Tribe. It is further stated that Shri Ananda Krishnan ~~ordinarily~~ resides in Mavelikkara Taluk of Alleppy Dist. in Kerala State. This certificate has been given to the applicant's brother. In regard to the entry in the SSLC Book ~~xxxxxxxxxxxxxx~~ that the applicant belongs to 'Reddiar Community', it is clarified by the applicant that the name of the sub-caste is not recorded in that book.

4 In view of these facts, it is submitted by the applicant that she belongs to the Konda-Reddy Community and that the disciplinary proceedings have been conducted in gross violation of the principles of natural justice and the impugned order passed therein should be set aside.

5 The respondents have submitted/replied affidavit which generally admits the facts as stated by the applicant. They have laid stress on the fact that though a community certificate issued by the Tahsildar, Annexure-A was produced to secure employment as a Scheduled Tribe

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candidate, the SSLC Book of the applicant shows that she belongs to the "Reddiar Community". It is also stated that neither the applicant's father nor his children have availed themselves of any of the concessions available to Scheduled Tribes during their academic studies, which is a matter of surprise. They, therefore, surmise that the Community Certificate given to her by the Tahsildar, Mavelikkara is a false one. This view gets full support from the report of the District Collector, Alleppey dated 14.3.88 (Annexure R1(A)). Hence, disciplinary proceedings were initiated against the applicant. It is also submitted that in the disciplinary proceedings the applicant had been given full opportunity to defend herself.

6. We have heard the learned counsel on both sides and perused the records carefully. Our task has been lightened to a certain extent, because the learned counsel of the applicant does not press the second relief and he has also withdrawn the averment made in the application that in the circumstances of this case, the question regarding the applicant's community has to be referred to the Govt. of India, Ministry of Welfare, Scheduled Caste and Scheduled Tribe Division. He conceded that in the present case, the question whether the applicant belongs to the Konda Reddy Community or is only a Caste Hindu Reddy could be ascertained by the Respondents by enquiring into the matter themselves or by requesting the Collector of the concerned

district for a report thereon and a suitable decision could be taken by them. Hence, we are not examining this issue and the decisions relied upon by the counsel, ~~for the~~ earlier stand.

7. The basic issue is whether the principles of natural justice has been followed in dealing with the applicant. It was admitted by the learned counsel of respondents that the Collector, Alleppey did not issue any notice to the applicant about the inquiries being made by him about her claim that she belonged to a Scheduled Tribe. She was not given an opportunity to produce evidence before the Collector, Alleppey to show that she in fact, belonged to the 'Konda Reddi Community'. The applicant has not only produced community certificates given to her and her relations by the revenue authorities in Mavelikkara stating that they belong to the 'Konda Reddi Community', but she has also produced before us the Annexure A2 certificate issued to her ~~Brother~~ by the Deputy Collector, Tirunelveli which is the ancestral district of the applicant. The learned counsel for the applicant also drew our attention to the Annexure-B document which is a sale deed executed by the applicant's ancestors in 1950 in Tirunelveli District which describes the applicant's father as a "Konda-Reddy". It is interesting to note that both the applicant's father Lakshmana

Reddiar and his father Krishnan Reddiar have been styled as Reddiars though their caste has been given as "Konda Reddi". The counsel claims that if a proper opportunity had been given to the applicant, she could have convinced the Collector, Alleppey, and the respondents that she really belonged to the "Konda Reddy Community".

8. The impugned Annexure-3 order is mainly based on the Annexure R1(A) report of Collector, Alleppey. We are clearly of the view that this report cannot be relied upon as it was admittedly made without giving the applicant any opportunity to be heard.

9. We, therefore, allow this application and quash the impugned Annexure-3 order dated 7.3.90 of the Director of Postal Services (Respondent 2). The respondents shall reinstate the applicant within one month from the date of receipt of this order. The applicant will be entitled to count as duty for all purposes the period during which she was out of service in pursuance of the impugned order (Annexure-3).

10. We make it clear that we have not considered the question whether the applicant is a Konda Reddi Scheduled Tribe or a Caste Hindu Reddy and that this judgment shall not stand in the way of the Respondents from initiating any proceeding as may be permitted under law, if so

(Signature)

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advised.

11. There will be no order as to costs.


(N. Dharmadan)

Judicial Member

19.9.90


(N.V. Krishnan)

Administrative Member

19.9.90