

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 198
T.A. No. 167/87

DATE OF DECISION 9.8.90

Manohar Barapatre

Petitioner

M.M. Sudame,

Advocate for the Petitioner(s)

Union of India Versus
& others

Mr P.S. Lambhat, Advocate Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.
I.K. Rasgotra, Member (Admn).

The Hon'ble Mr.

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. Whether it needs to be circulated to other Benches of the Tribunal?

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH :NAGPUR.

TR 167/87-

Manohar Barapatre ... Applicant.
-versus-
Union of India and others ... Respondents.

P R E S E N T :

The Hon'ble Sri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Sri I.K.Rasgotra, Member(Admn).

For the applicant- Shri M.M.Sudame, Advocate

For the respondents- Shri P.S.Lambat, Advocate.

Date of hearing - 7.8.90.

Date of Order - 9.8.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :

This relates to Writ Petition No.1133 of 1982
on the file of the High Court of Bombay, received on transfer.

2. The case of the applicant is that he entered the Railway service as a Probationary Commercial Clerk on 5.1.1959 and was confirmed in the grade on 1.4.1960 and that on the date of filing of the application he is working as Goods Clerk Grade 'B'. According to him, he belongs to the Halba tribe, which is a recognised Scheduled Tribe. It is alleged that when the question of promotion arose in 1973, he was called upon to produce the community certificate. It is stated that he submitted the certificate issued by the Additional District Magistrate, Chandrapur. According to the applicant, the 4th respondent was promoted superseding his claim and, thereafter, in the year 1981, the respondents 5 and 6 were also so promoted.

3. On 25/31st August, 1978, the respondents issued a Memorandum wherein it was stated that the applicant belongs to " Halba Kosti" which is not included in the list of Scheduled Castes/Scheduled Tribes in the State of Maharashtra. The applicant places reliance on the letter of the Government of Maharashtra

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dated 19.7.1973, copy of ~~2162~~ which is at Annexure-X, wherein it is stated that the Government have decided that 'Halba Kosti' should be treated as belonging to Scheduled Tribe. Reliance is also placed on the letter dated 24.8.1979 from the Ministry of Home Affairs, Government of India, to the effect that 'Halba' is the name of the Tribal Community and is specified as a Scheduled Tribe in relation to whole of Maharashtra State. A copy of the letter is at Annexure-XI.

4. The applicant prays for a direction to quash the orders promoting the respondents 4 to 6 and for a direction to the respondents 2 and 3 to consider his claim for promotion in the reserved quota of Scheduled Castes/ Scheduled Tribes, and to treat him as a Scheduled Tribe candidate.

5. In the reply filed on behalf of the respondents 1 to 3, it is contended that the applicant does not belong to the Scheduled Tribe ~~community~~. As regards the denial of promotion, it is stated that the applicant appeared for the test but he failed and hence he cannot question the promotions allowed to the respondents 4 to 6.

6. At the time of hearing, counsel of the applicant submitted that the relief with respect to the quashing of the promotions allowed to respondents 4 to 6 is not pressed and that the applicant wants only a direction to the respondents 2 and 3 to treat him as belonging to the Scheduled Tribe and allow the benefits on that account. We are of the view that the applicant is entitled to the said relief.

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7. It is seen from the letter of the Personnel Officer issued on 5.1.1959 to the Chief Cashier, South-Eastern Railways, at the time of the appointment of the applicant as a Probationary Commercial Clerk that the applicant was treated as belonging to Scheduled Tribe. However, it appears that later the respondents No.2 and 3 took up the stand that as the applicant belongs to " Halba Kosti" which is not included in the list of Scheduled Castes/Scheduled Tribes community in the State of Maharashtra, he cannot claim the benefits of the employees belonging to the Scheduled Tribes (vide letter of the Divisional Personnel Officer dated 25th/31st August, 1978, copy of which is at Annexure-IX). This stand of the respondents 2 and 3 cannot be accepted in view of the unequivocal decision of the Government of Maharashtra contained in the letter of the Ministry of Social Welfare, Government of Maharashtra, dated 19.7.1973 (Annexure-X) to the effect that "Halba Kosti" should be treated as belonging to Scheduled Tribe and be held eligible for all concessions admissible to them. The Government of India have also recognised the same stand as is clear from the letter of the Ministry of Home Affairs dated 24.8.79 (Annexure-XI), where it is stated that Halba is the name of the Tribal community and is specified as Scheduled Tribe in relation to the whole of Maharashtra State.

8. In view of the above, we direct the respondents 2 and 3 to treat the applicant as belonging to the Scheduled Tribe ~~community~~ and to accord him consequential benefits.

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9. The application is disposed of as above.

Shri I.K. Rasgotra
(I.K. Rasgotra
Member (Admn) 9/8/90

G. Sreedharan Nair
(G. Sreedharan Nair
Vice Chairman. 9-8-1990

S.P. Singh/
8.8.90.

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