

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No.s. 760/89 & 762/89

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~~To XXXXX~~

DATE OF DECISION 19.6.1991

Ram Babu Pal & Shyam Babu Pal Petitioners

Mr. L.M.Nerlekar Advocate for the Petitioner(s)

Versus

Superintendent, Central Railway Respondent
Printing Press, Byculla, Bombay.

Mr. Subodh Joshi Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member (A)

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 ?


(U.C.Srivastava)
V/C

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

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Original Application Nos. 760/89 & 762/89

1. Ram Babu Pal,
R/o. Near Arabie Madarsa,
Indranagar, Murbad Road,
Kalyan, Dist. Thane.

2. Shyam Babu Pal,
R/o. Near Arabie Madarsa,
Indranagar, Murbad Road,
Kalyan, Dist. Thane.

... Applicants

V/s

Superintendent, Printing and
Stationery, Central Railway,
Central Railway, Byculla,
Bombay.

... Respondent

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. L.M.Nerlekar, Advocate,
for the applicants and Mr.
Subodh Joshi, Counsel for the
respondent.

ORAL JUDGEMENT:

Dated : 19.6.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicants in these two cases who appear to be the brothers, amongst themselves ^{and are} residents of the State of Uttar Pradesh applied for jobs in Central Railway Printing Press, Byculla, in the year 1978 and they were appointed ^{to} the same. From the year 1978 they are continuing in service. It appears that in the year 1988 it was discovered that the posts on which they were appointed were meant for members of the Scheduled Tribe and they have wrongly described themselves as member of Scheduled Caste and secured appointment. Consequently a show cause notice was issued to them and without holding any enquiry they were removed from service vide order dated 31st August, 1988. Both of them filed

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appeal against this order but the appeal has been disposed of and that is why they have approached this Tribunal.

2. The contention on behalf of the applicant is that they never intended to commit any fraud and in case they were to be penalised a full fledged enquiry should have been taken place and without holding a new enquiry on the basis of charge their services could not have been terminated. As directed by us their applications were produced before us and we have found that the applications are in a printed form over which it was mentioned that the post is meant for Scheduled Tribe, they mentioned their name and their caste as PAL Caste and against the column name of community they mentioned as Scheduled Tribe. Thereafter, it appears they were required to file an affidavit and on the basis of affidavit the Special Executive Magistrate, Murbad, Kalyan granted the certificate mentioning that they are members of Pal Hindu community which is classified as Scheduled Tribe within the meaning of Scheduled Tribe amendment order 1956 Constitution Jammu & Kashmir Scheduled Tribe order 1962 under which it has been admitted that they are member of Scheduled Tribe. Obviously, in case after ten years it was reported that the Pals are not member of Scheduled Tribe a full fledged enquiry should have taken place and ^{also} ^{Taken} action against the appointing authority as well as the Magistrate who without verifying as to whether it is a Tribe under the Scheduled Tribe order or amendment order granted the certificate. But no action appears to have been taken against the Magistrate or the appointing

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authority and only the employees have been made scape goat. If they have committed fraud then there ^{was also} ~~were also~~ gross negligence ~~on their part but~~ gross negligence ^u on the part of the appointing ^{authority} in ascertaining as to whether in fact the members of this community are members of Scheduled Tribe and so far as the Magistrate is concerned his position will be even worse ^{guile} ~~that~~ he even mentioned that they are members of that Tribe and the Tribe has been described under particular order as member of Scheduled Tribe. Obviously if three parties were involved in it, action against one should not have been taken in this manner. However, it should not be taken to me ^{an} that any ^{relief} ~~biased~~ ~~is~~ is to be granted to these persons in case they have procured appointment by committing fraud. ~~if~~ ^{been} A full fledged enquiry should have ~~taken~~ place in which they should have been given an opportunity to state as to whether they are members of Scheduled Tribe or not and in case they were not, how have they stated so. But, apparently, ~~it appears that~~ in the State of Uttar Pradesh there is no such Scheduled Tribe which is known as PAL. It may be that the authority was satisfied later-on that they are not members of the Scheduled Tribe. As such the removal order obviously will become bad without such an enquiry. But in view of the fact that the things are so patent and so apparent, that may not call for any detailed enquiry. In view of the fact that three parties are involved in it we leave it ^{to} ~~on~~ the respondents either to hold a full fledged enquiry ^u against the applicant and to ~~take~~ ^{without proper verification} action against the appointing authority who appointed them or to

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to recommend the State Government to take action
against the Magistrate ^{who issued an incorrect certificate} or they may condone the lapses
on the part of all the ⁴three and give fresh appointment
to the applicants without taking into consideration
that in the meantime they have become overaged. The
applications stand ^{awarded} disposed of. There will be no
order as to costs.



(M.Y. Priolkar)
Member(A)



(U.C. Srivastava)
Vice-Chairman