

6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY

\* \* \* \* \*

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 brother<sup>and we</sup> amongst themselves, residents of the State of Uttar Pradesh applied for job in Central Railway Printing Press, Byculla, in the year 1978 and they were appointed<sup>to</sup> the same. From the year 1978 they are continuing in service. It appears that in the year 1988 it was discovered that the post 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

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 <sup>also</sup> action <sup>Taken</sup> 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

(7)

authority and only the employees have been made scape goat. If they have committed fraud then there <sup>was also</sup> ~~were also~~ gross negligence ~~on their part~~ but gross negligence <sup>on the part of the appointing authority</sup> 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 <sup>since</sup> 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 <sup>be</sup> taken to me that any <sup>biased</sup> ~~is~~ <sup>is</sup> is to be granted to these persons in case

they have procured appointment by committing fraud.

~~If~~ A full fledged enquiry should have <sup>been</sup> 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 <sup>to</sup> ~~on~~ the respondents either to hold a full fledged

enquiry against the applicant and to take action against

the appointing authority who appointed them <sup>without proper verification</sup> or to

to recommend the State Government to take action  
against the Magistrate or they may condone the lapses  
on the part of all the three and give fresh appointment  
to the applicants without taking into consideration  
that in the meantime they have become overaged. The  
applications stand <sup>accordingly</sup> disposed of. There will be no  
order as to costs.