

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 7TH NOVEMBER, 1986

Present: Hon'ble Mr Justice K.S. Puttaswamy Vice Chairman

Hon'ble Mr L.H.A. Rego Member

Application No. 1030/86

V. Mukunda,
S/o: Venkatappa,
Major,
Working as Khalasi,
T.No. 2516, C.P.T. Shop,
Southern Railway Workshop,
Mysore South. Applicant

(Shri M. Raghavendra Achar ... Advocate)

Vs

1. The Senior Personnel Officer,
Southern Railway,
Mysore.
2. The Chief Personnel Officer,
Southern Railway,
Mysore.
3. The Works Manager,
Southern Railway,
Mysore. Respondents

(Shri A.N. Venugopal ... Advocate)

This application has come up for hearing
before Court today. Vice-Chairman made the following:-

O R D E R

In this transferred application received from
the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act of 1985 (Act), the applicant
has sought for a direction to the respondents to
treat him as a member of a Scheduled Tribe (ST) called
'Nayaka' and extend him all such benefits to which he
is entitled to in law.

2. The applicant who initially joined as a Khalasi
is at present working as a Skilled Artisan Grade III

in the Southern Railways.

3. The applicant claims that he belongs to Nayaka caste which is now recognised as a ST under The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 (108 of 1976). On this basis, the applicant moved the respondents to recognise him as a member of ST and extend him the benefits available to the members of STs on which they did not take any decision. Hence this application.


4. Shri M. Raghavendra Achar, learned counsel for the applicant contends that when a claim is made by a person that he was a member of a ST on change in law, the authorities were bound to investigate the same and decide the question one way or the other. In support of his contention, Shri Achar strongly relies on the decision rendered by us in A.No. 279/86 on 14.10.86 in S.S. Barker Vs Director of Postal Services and another.

5. Shri A.N. Venugopal learned advocate for the respondents opposes the claim of the applicant.

6. We have earlier noticed that the Scheduled Tribes Order was amended by Act No. 108 of 1976 recognising the caste of 'Nayaka' as a Scheduled Tribe. When that caste was recognised as an ST, those who were members of that caste can naturally claim that benefits.

7. Whenever a person makes a claim to the effect

.....3/-



that he is a member of a ST called Nayaka caste the authorities are bound to investigate the same and take a decision one way or the other.

8. In Barker's case, we have held that a certificate issued by a revenue authority was not binding on the appointing or other authorities who have to decide the claim and the methodology to be adopted in the investigation of such claims.

9. Whether the applicant is a member of a caste called Nayaka which has been recognised as a ST, has necessarily to be examined and decided by respondent 3, at any rate in the first instance. Before that authority decides that matter, on the evidence that may be placed by the applicant and the evidence that may be available with the department and to be collected by the department, we cannot ourselves examine that claim. In this view, there is no other alternative for us except to direct respondent 3 to examine the claim of the applicant and decide the same.

10. In the light of our above discussion, we direct respondent 3 to investigate the claim made by the applicant and take a positive decision one way or the other with all such expedition as is possible in the circumstances of the case and in any event within a period of six months from the date of the receipt of the order of this Tribunal.

11. Application is disposed of in the above terms but in the circumstances of the case, we direct the parties to bear their costs.

12. Let this order be communicated to the respondent no. 3 along with a copy of the order in Barker's case (A.No. 279/86) within 15 days from this day.

ALB. Buller ^{and}
VICE CHAIRMAN ^{July 26}

MEMBER (AM) (R)

SR