

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : 31/8/87

APPLICATION NO 1883 /86(T)

W.P. NO 6777/85

Applicant

Shri V. Nagendra Prasad

v/s The Works Manager, Southern Railway,
Mysore

To

1. Shri V. Nagendra Prasad
No. 35, Industrial Suburb II Stage
Mysore - 8
2. Shri Ravi Varma Kumar
Advocate
11, Jeevan Buildings
Kumara Park East
Bangalore - 560 001

3. The Works Manager
Southern Railway
Mysore South
Mysore
4. Shri A.N. Venugopal
Advocate
Room No. 12, 2nd Floor
SSB Mutt Building
Tank Bund Road
Bangalore - 560 009

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/
~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 20-8-87.

B. V. Venkatesh
DEPUTY REGISTRAR
~~SECTION ORDER~~
(JUDICIAL)

Encl : as above

RECEIVED *(x) Copies of 8/87*

Diary No. 1089/CR/18
Date: 1/9/87 *(Signature)*

(initials)

CENTRAL ADMINISTRATIVE TRIBUNAL : BANGALORE

DATED THIS THE 20TH DAY OF AUGUST, 1987.

PRESENT:

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

Hon'ble Mr. P. Srinivasan ... Member (A)

APPLICATION NUMBER 1883 OF 1986

V. Nagendra Prasad
Son of T. Venkatesh
Aged about 22 years, Unemployed, residing
at No.35, Industrial Suburb II Stage
Mysore - 8. ... Applicant

(By Sri Ravi Varmakumar, Advocate)

v.

The Works Manager
Southern Railway
Mysore South
Mysore ... Respondent

(By Sri A.N. Venugopal, Advocate)

This application coming on for hearing,
Vice Chairman made the following:

O R D E R

This is a transferred application and is received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act').

2. The applicant who claims to be a member of a Scheduled Tribe ('ST' called 'Nayaka' applied for the posts of 'Khalasis' in the Central Workshop, Mysore South ('Unit') notified by the Works Manager, Southern Railway, Mysore ('WM'). Accepting his said claim, the WM on 24-12-1983 (Annexure-B) selected the applicant to one of the posts reserved to members of ST in the Unit. In due course, the WM issued appointment orders to all other selectees except



the applicant. After making unsuccessful representations before the WM and other authorities, the applicant approached the High Court on 22-4-1985 in Writ Petition No.6777 of 1985 seeking for a writ in the nature of mandamus to direct the WM to appoint him to the post of a Khalasi in the Unit. This writ petition on transfer has been registered as A.No.1883 of 1986.

3. The applicant has reiterated that he was a member of a ST called 'Nayaka' relying on a certificate of the Tahsildar, Chikkaballapur Taluk issued on 24-1-1984 (Annexure-C) and that therefore, the authorities were unjustified in denying him the appointment to which he was legitimately entitled in law.

4. In his reply, the respondent has asserted that the applicant was not a member of a ST called 'Nayaka' and that the claim made by him was false and untrue to his knowledge. In elaborating the same, the respondent has stated that the father of the applicant Shri T. Venkatesh, who was still working in the very unit currently as a Highly Skilled Artisan Grade-I ('Artisan') who joined service as a Khalasi on 9-3-1955, had stated the caste to which he belonged to be 'Maidu' and not 'Nayaka'.

5. In the rejoinder filed today, the applicant has reiterated his case attaching an affidavit sworn by his father in support thereof.

6. Shri Ravivarma Kumar, learned counsel for the applicant strenuously contends that his client



was a member of a ST called 'Nayaka' and that he was entitled for an appointment on his selection made in 1983 and that in any event the disputed claim on his status calls for an inquiry and a decision in accordance with law as ruled by Rama Jois, J. in (B. MUNIVENKATAPPA AND ANOTHER v. THE GENERAL MANAGER, SOUTHERN RAILWAY AND OTHERS (Writ Petitions Nos. 16644 and 16645 of 1979 decided on 4-10-1982) (Annexure-H).

7. Shri A.N. Venugopal, learned counsel appearing for the respondent contends that on unimpeachable evidence, the WM was justified in holding that the applicant was not a member of a ST called 'Nayaka' and in refusing him appointment and the facts and circumstances do not justify any inquiry.

8. The applicant does not dispute that his father Sri T. Venkatesh who joined service in 1955 was employed in the Railways and that the service register being Staff No.1561 which was produced before us today and earlier also relates to his father. In that service register, opened on 29-9-1956, the caste or creed of Sri T. Venkatesh has been entered as Hindu (Naidu) and the same has also been signed by him in English. From 1-1-1984 Sri T. Venkatesh had also been promoted as an Artisan from the open or general category. We should at this stage notice that the caste 'Nayaka' which had not been recognised



as an ST came to be recognised as an ST from 27-7-1977 by Central Act No.108 enacted in that behalf. On these facts which are not in dispute and all other surrounding circumstances, the WM had found that the applicant was not a member of ST called 'Nayaka'. We are of the view that this finding of the WM is a reasonable finding and cannot be characterised as based on 'no evidence' or so perverse that no reasonable man would have ever reached that conclusion at all. When that is so, we should be loathe to interfere with the same. The non-production of the school extracts also support the finding of the WM.

9. But, the father of the applicant in his affidavit filed on 12-8-1987 claims that he had declared himself as a member of a 'Nayaka' community when he joined service and had not declared himself as a member of a caste called 'Hindu Naidu'. Sri Kumar strongly relies on this affidavit and a true copy of sale deed executed by one Sri Hanumantharao in favour of one Sri Doddanarasappa and urges us to hold otherwise and in any event to direct an inquiry by the WM.

10. After all, service particulars on religion and caste, that too when there is no claim to a caste recognised either as a SC or ST, are entered on the very particulars furnished by an official himself and not by making any inquiry into the same at



all. We have no doubt that is what had been done in the case of Sri Venkatesh also. If that is so, we must necessarily hold that the entries in the service register of Sri Venkatesh as to his caste had been made on his representation only and the theory of a wrong entry made then as is now asserted by him only on 12-8-1987, naturally to advance the case of the applicant, who is his son, cannot be accepted by us and or could not be accepted by the WM also. We, therefore, refuse to place any reliance on the affidavit of Sri Venkatesh.

11. The copy of the sale deed is totally unhelpful to decide the question. We, therefore, place no reliance on the same.

12. On the foregoing discussion, it follows that the additional evidence produced along with the rejoinder which is not a pleading under the Act, calls for rejection.

13. Sri Ravivarma Kumar rightly does not dispute that the caste or community of 'Naidu' was a distinct and a separate community which has nothing to do with the 'Nayaka' caste or community. If that is so, then we must necessarily hold that the father of the applicant Shri T. Venkatesh was a member of a Hindu community called 'Naidu' and the applicant who is his son was a member of the same caste and was not a member of a ST called 'Nayaka'



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recognised as such from 27.7.1977. From this it also follows that no reliance can also be placed on the certificate issued by the Tahsildar on 24-1-1984 (Annexure-C). On this view, we do not consider it necessary to direct the WM to hold an inquiry as if it was a ritual to be performed. On the facts of this case it will be an exercise in futility. We do not read the ruling of Rama Jois, J. in Munivenkatappa's case as holding to the contrary.

14. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-

VICE CHAIRMAN

26/5/87

Sd/-

MEMBER (A)

Mr.

'The Copy'

B. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL 31(8)
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

To

Dated: 1-9-87

1. Shri. Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Shri. R. Venkatesh Prabhu, Member,
Editorial Committee,
Administrative Tribunal Reporter,
67- Lower Palace Orchards,
Bangalore- 560 003.
3. The Editor,
Administrative Tribunal Cases,
C/o. Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. Delhi Law Times Office,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007. (Rep. by Miss. Alka Kulkarni, Reporter, Bangalore)
5. M/s. All India Reporter,
Congressnagar,
Nagpur.
6. Services Law Reporter,
108, Sector 27-A,
Chandigarh- 160 019.

Sir,

I am directed to forward herewith a copy of the under mentioned
order passed by a Bench of this Tribunal comprising of Hon'ble

Mr. K.S. Puthaswamy, Vice-Chairman/

Member (J) and Hon'ble Mr. P. Srivastava, Member (A)

with a request for publication of the order in the Journals.

Order dated 20-8-87 passed in A.Nos. 1883/86CT.

Yours faithfully,

B.V. Venkatesh Reddy
(B.V. VENKATA REDDY)
DEPUTY REGISTRAR(J).

RECEIVED (18) copies 02/09/87

James
29/9/87

Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compounds, Nungambakkam, Madras- 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), First Floor, Near Kankon Bhavan, New Bombay- 400 814.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No.013, Thorn Hill Road, Allahabad- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, OPP.Maharaja College, M.G.Road, Ernakulam, Cochin- 682001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur(MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna- 1.
11. The Registrar, Central Administrative Tribunal, C/o.Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanpura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak-753001.

Copy with enclosures also to:

1. Court Officer(Court I)
2. Court Officer (Court II)

sd/-
(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J).