

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE SEVENTEENTH OF OCTOBER 86

Present: Hon'ble Shri CH.Ramakrishna Rao ... Member (J)

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

Shri H.B. Yeligar, A.No.950/86(T)  
Telegraphist,  
Central Telegraph Office,  
Bangalore-560001

... Applicant

(Shri M.Raghavendra Achar, Advocate)

vs

1. The General Manager,  
Telecommunication,  
Karnataka Circle,  
Bangalore.

2. The Chief Superintendent,  
Central Telegraph Office,  
Bangalore.

... Respondents

(Shri M. Vasudeva Rao, Advocate)

The application came up for hearing before this  
Court on 17-10-1986. Member (J) made the following:

ORDER

In this application which was initially filed as a writ petition in the High Court of Karnataka, the prayer of the applicant is that the respondents be directed to enter in the service records that he is a person belonging to the Scheduled Tribe 'Nayaka' and grant him all consequential benefits arising therefrom. The facts giving rise to the application lie in a narrow campus. The applicant joined service as Telegraphist in the Central Telegraph Office, Bangalore, on 27-11-1965. At that time, he did not claim that he belonged to the Scheduled Tribe.

2. On 15-12-1977, the applicant applied to the Chief Superintendent, Central Telegraph Office, Bangalore, requesting that amendment may be made in his service record incorporating his caste/community as 'Nayaka' Scheduled Tribe, and for necessary further action in the matter. Subsequently the



applicant wrote a letter dated 23-3-78 to the Chief Superintendent, CTO, Bangalore, reiterating his request and enclosing thereto the certificate given by the competent authority i.e. Tahsildar, Ranebennur. That certificate inter alia states that the applicant belongs to 'Nayaka' Tribe which is recognised as ST under the Constitution (Scheduled Tribes) Order, 1950. This certificate is issued on the basis of the caste certificate issued by the Tahsildar, Bangalore, dated 29-9-1977 and the affidavit made by Shri H.B. Yeligar. The applicant not having received any reply to his representation has filed this application.

3. Shri M. Raghavendra Achar, learned counsel for the applicant, submits that the certificate dated 30-3-1978 (Annexure C) issued by the Tahsildar, Ranebennur, is sufficient in the eye of law to demonstrate that his client belonged to the Nayaka community which is a Scheduled Tribe and the respondents erred in not accepting the same and acting upon it. Shri Achar further submits that the school leaving certificate mentions the sub-caste of his client as 'Talwar' which is really a synonym for Nayaka which is a Scheduled Tribe. Reliance is placed by the learned counsel on the letter dated 7-12-1977 issued by the Deputy Director of Social Welfare, Belgaum addressed to the Director of Social Welfare and Backward Classes, Bangalore (Annexure F to the application) in which, inter alia, it is stated

"In Dharwar District: The Nayakas are called as "Walmikis", "Talwar", "Clekar", "Walikar", "Nayakas" and Bedas, Bardas, Bariki. These people are spread out in all villages of all Talukas of Dharwad District. They are mostly agricultural labourers, petty workers and many of them served as Walikars of village Head-men."

Shri M. Vasudeva Rao, learned counsel for the respondents, vehemently contends that "Talwar" is not "Nayaka". In

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support of his contention, he relies on a letter received by the General Manager, Telecommunications, Karnataka Circle, Bangalore, from the Tahsildar, Ranebennur stating that the applicant belongs to Talwar caste which reads as follows:-

'Ref: Your letter No.staff/24-19/A Bangalore dated 8-9-78.

With reference to the above I have to inform you that Shri H.B. Yaligar belongs to Talwar caste which is classified as Backward Tribe under Havanner Commission report. Since he does not belong to SC/ST community, the certificate of Backward Tribe cannot be issued in the form meant for issue of certificate to S.C. and S.T. Candidates. Hence the caste certificate already issued is sent herewith.'

According to Shri Vasudeva Rao, after the above-referred letter was received by the General Manager, the certificate obtained by the applicant from the Tahsildar (Annexure C) has lost its validity and cannot be relied upon by the applicant. Further, the counsel sought to make out that inasmuch as the certificate dated 30-3-1978 itself mentions that it was issued on the basis of the caste certificate issued by the Tahsildar, Bangalore, who was not the competent authority for the purpose of determining the caste of the applicant, it cannot be acted upon.

4. After giving careful thought to the matter, we are clearly of the view that the certificate dated 30-3-78 (Annexure C) conflicts with the subsequent letter issued by the same Tahsildar to the General Manager, Telecommunications, Bangalore, and as such, the real controversy has not been resolved by either of the certificates issued by the Tahsildar. In this connection, we may usefully refer to the decision of the Supreme Court in *Bhaiya Ram Munda vs Anirudh Patar* (AIR 1971 SC 2533), in which Justice Shah speaking for the Court observed:

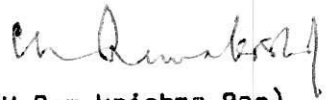


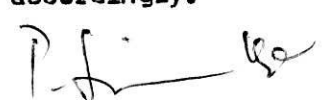
"30. It is true that in Part III of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 issued under Art. 342 of the Constitution the name "Munda" is mentioned and similarly the names of other sub-tribes amongst Mundas are mentioned. Counsel for the appellant contended that if according to Dr. Sachchidanand, Mahalis, Ho, Bhumijs, Asur, Baiga and Khangars are Mundas, specific mention of some of these tribes in the Scheduled Tribes Order clearly indicated that Patars who are not mentioned therein are not a Scheduled Tribe within the meaning of the Order. There is however no warrant for that view. If Patars are Mundas, because some sub-tribes of Mundas are enumerated in the Order and others are not, no inference will arise that those not enumerated are not Mundas. We are unable to hold that because Patars are not specifically mentioned in the List they cannot be included in the general heading Munda."

The observations of the Supreme Court extracted above, support the view that merely because Talwar is not mentioned in the list of Scheduled Tribes, it does not follow that Talwar is not a Scheduled Tribe, nor can it be inferred that Talwar is not synonymous with Nayakas just because of such omission. However, it is for the competent authority to determine whether Nayak and Talwar are synonymous; whether Talwar is a ST and whether the applicant belongs to a ST, as the certificate already issued by the Tahsildar earlier is not decisive on the question because he contradicts himself later.

5. In view of the foregoing, we direct the respondents to conduct a fresh enquiry and satisfy themselves by obtaining a certificate from the competent authority in unambiguous terms so that controversy in the case may be settled once and for all.

6. The application is disposed of accordingly.

  
(CH. Ramakrishna Rao)  
Member (J)

  
(P. Srinivasan)  
Member (A)