

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 5 APR 1988

CONTEMPT OF COURT APPLICATION NO. 52
IN APPLICATION NO. 922/86(T)
W.P. NO.

87

Applicant

Shri P.G.K. Murthy

To

Respondent

V/s The GM, South Central Railway, Secunderabad
& another

1. Shri P.G.K. Murthy
C/o Shri R.U. Goulay
Advocate
90/1, 2nd Block
Thyagarajanagar
Bangalore - 560 028
2. Shri R.U. Goulay
Advocate
90/1, 2nd Block
Thyagarajanagar
Bangalore - 560 028
3. The General Manager
South Central Railway
Secunderabad (A.P.)
4. The Divisional Railway Manager
South Central Railways
Hubli Division
Hubli (Dharwad District)
5. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

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 25-3-88.

DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

dc

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 25TH DAY OF MARCH, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

CONTEMPT OF COURT APPLICATION NO. 52/1987

Shri P.G.K. Murthy,
Major, South Central Railways,
Resident of Hubli,
District Dharwad.

.... Petitioner.

(Shri R.U. Goulay, Advocate)

v.

1. The General Manager,
South Central Railways,
at Secunderabad, A.P.

2. The Divl. Railway Manager,
South Central Railways,
Hubli Division,
Hubli, Dist. Dharwad.

.... Contemnors..

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,
Vice-Chairman made the following:

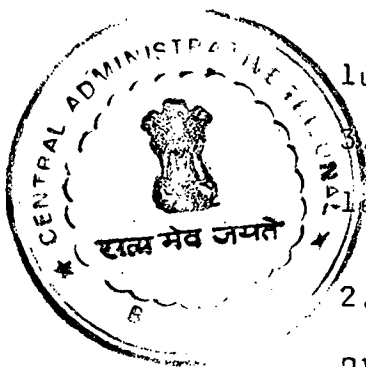
O R D E R

Case called on more than one occasion in the pre-lunch session and again in the post lunch session at 3.10 P.M. On every occasion, the petitioner and his learned Counsel are absent.

2. The contemnors have filed their reply and have produced their records. In their reply, the contemnors have asserted that the order made by this Tribunal on 16.10.1936 had been complied. Shri M. Sreerangaiah, learned Counsel appearing for the Contemnors urges for dropping the contempt of Court proceedings.

J. COURT CONTAMINATED

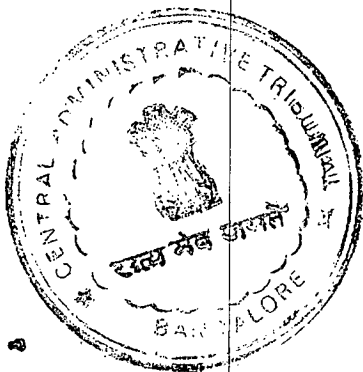
1988



3. We notice that in pursuance of our order made on 16th October, 1986 the competent authority had made an order on 29.2.1988 inter alia holding that the petitioner was not a member of a Scheduled Tribe ('ST'). We are of the view that this order complies with the directions of this Tribunal.

4. In the contempt of Court proceedings, we cannot examine the validity of the order made by the Contemnors on 29.2.1988. If the petitioner is aggrieved by that order, the remedy open to him is to pursue the legal remedies open to him on the same either before the Authorities or this Tribunal in a fresh application under Section 19 of the Administrative Tribunals Act. Whether he should do so or not is a matter for the petitioner to decide. On this view, we have not also examined the correctness of the order made on 29.2.1988 and is left open.

5. On the foregoing discussion, we hold that this contempt of Court proceedings are liable to be dropped. We, therefore, drop the contempt of Court proceedings against the contemnors. But in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-
VICE-CHAIRMAN 29/1

TRUE COPY

np/Mrv.

Sd/-
MEMBER (A) 29/1

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE.

C.C. NO: 52/87

- 1) Petitioner:- Sri. P.G.K. Murthy,
..... VS
2) Contemner:- General Manager S.C. Rly
Secunderabad and others.

STATEMENT OF REPLY.

The contemner named above beg to state
as follows:-

In accordance with the directions issued by this Honourable Tribunal by its order dated 16.10.1986 a Show Cause notice dated 19.1.1987 was issued to the petitioner to show cause on or before 5.2.87, as to why he should not be held to belong to other caste, and also requiring him to produce caste certificate, from the competent Authority ie., Tahasildar of his native Taluka in Andhra Pradesh. A true copy of Home Ministry's OM No. BC- 12025/II/79-SC-BCD/I/IV of 29.3.82, circulated under Rly.Bd's letter No. 82E(SCT)31/14 dated 26.5.1982 and forwarded under CPO/SC No. P(RES)171/Policy/IV dated 10.6.82, was enclosed to the said show cause notice issued to the petitioner.

The petitioner furnished his reply on 28.1.87 to the show cause notice said above. In his explanation, he urged the department to accept his claim that he belonged to Scheduled Tribe on the basis of the Certificate issued by the Tahasildar of Hbli, Karnataka State: which he had produced prior to the issue of the above said circular which states that the competent authority to issue caste

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A

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 16TH DAY OF OCTOBER, 1986.

PRESENT:

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

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

APPLICATION NO. 922 OF 1986

P.G.K. Murthy,
Major, South Central Railways,
Resident of Hubli,
District Dharwad. .. Applicant.

(By Sri Jagannath, Advocate)

v.

1. The General Manager,
South Central Railways
at Secunderabad,
Andhra Pradesh.
2. The Divisional Railway
Manager, South Central
Railways, Hubli Division,
Hubli, District Dharwad. .. Respondents.

(By Sri M. Sreerangaiah, Advocate)

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

ORDER

In this transferred application received from
the High Court of Karnataka under Section 29 of
the Administrative Tribunals Act of 1985 ('the Act')
the applicant has sought for a direction to the
respondent to promote him as 'Chargeman (Electrical)'
(Chargeman') from out of the quota reserved to
members of Scheduled Tribe.

2. The



2. The applicant claims that he is a member of a scheduled tribe called 'Kondakapu'. He joined service on 19-9-1963 in the South Central Railway as A.C.Mechanic, Highly Skilled Grade-II. On 8-1-1981 the applicant was promoted as TLF Highly Skilled Grade-II from out of the quota reserved to members of scheduled tribe. He again claimed promotion as 'Chargeman' from out of the quota reserved to members of scheduled tribe. But, that has not been granted by the respondents on the ground that the caste certificate produced by the applicant was not genuine.

3. The applicant has challenged the same inter-alia on the ground that the same had been arrived without issuing him a show cause notice and an opportunity of hearing, which fact is not denied by the respondents in their statement of objections filed in the case before the High Court

4. Sri R.Jagannath, learned counsel for the applicant contends that the authorities having once accepted the claim of the applicant that he was a member of ^{the} scheduled tribe were bound by the same and consider his case for further promotion to the post of Chargeman only on that and no other basis.

5. Sri M.Sreerangaiah, learned counsel appearing for the respondents sought to support the action of the respondents.

6. The fact that an authority had accepted the caste certificate at one point of time does not take away the power of that authority or superior authority

authority to re-examine the same and hold otherwise. In A.No.279/86 decided on 15-10-1986 S.S. Barker v. Director Postal Services, we have examined a similar question and rejected the very broad proposition urged for the applicant. We, therefore, reject the same.

7. The very procedural infirmity found in Barker's case is also found in this case. For the very reasons stated in Barker's case, we must direct the authorities to re-do the matter on the very lines indicated in that case.

8. In the light of our above discussion, we make the following orders and directions:

- (a) We reserve liberty to the respondents to hold an inquiry and decide as to whether the applicant was a member of a scheduled tribe or not. But, before commencing such inquiry, the respondents shall issue a show cause notice to the applicant with copies of all such documents that are in the possession of the Department and also permit him to inspect the file, receive the objections/reply that may be filed by the applicant within the time stipulated in the show cause notice, which shall not be less than 15 days and then hold the inquiry in accordance with law. We direct the Respondents to complete such inquiry with all such expedition as is possible in the circumstances of the case and in any event within 6 months from the date of receipt of the order of this Tribunal. We make it clear that it is open to the respondents to rely on all the evidence already collected and in the possession of the Department and all further evidence, if any, to be collected by them or the Department also.

- (b) We direct the respondents or the competent officer to modulate the

promotion



promotion of the applicant from the reserved quota in conformity with the decision of the competent officer.

9. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sr/np

VICE CHAIRMAN,

MEMBER (A) (R)

16.10.1986

True copy

Heer
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

IN

[Faint, illegible handwritten notes]

1. The first part of the document is a list of names and dates, which appears to be a record of some kind. The names are written in a cursive script, and the dates are in a more formal, printed style. The list is organized into columns, with names in the first column and dates in the second column.

2. The second part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a consistent style throughout.

3. The third part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a consistent style throughout.

4. The fourth part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a consistent style throughout.

5. The fifth part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a consistent style throughout.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

Certificates, would be the Authority of the State from where persons have migrated and not the Authorities of the state to which they have migrated and also petitioner requested for Personal hearing.

Thereafter, an enquiry was conducted on 17.8.87. The Petitioner did not wish to inspect or peruse any documents. In the enquiry he stated that he was born at Dharmavaram of Anantapur District of Andhra Pradesh, and that his native place was Machilipattanam in Andhra Pradesh. He also stated that it is not possible to bring the caste Certificate from Andhra Pradesh, and that he has already Produced his caste Certificate from the Tahasildar of Hibli (Karnataka State) on that basis, he was once given promotion from HSK.II to HSK.I.

It is true that the petitioner was once given promotion of HSK.II to HSK.I, before receipt of the instructions contained in Board's letter Nos: 81-E(SCT)15/23 dated 31-3-81 and No:82-E(SCT) 31/14 dated 26.5.82. Now, according to these circulars, while giving promotions to the ~~xxxv~~ reserved community, verification of the caste certificates is essential at the time of making subsequent promotions.

At the time of next promotion as Chargeman 'B' during 1981 and also, mean while, on complaint, his caste was to be verified. He was asked to produce his caste certificate in accordance with the above said Boards letters, which he failed to do within stipulated time

Again on 23.2.1988 he was asked to produce his caste certificate as already indicated to him on 27.1.88 and 5.2.88, which again he did not do so.

It is submitted that on the consideration of the Petitioner's explanation to the Show Cause notice, enquiry held, and the investigation made by the department, the administration has come to conclusion that the petitioner does not belong to Scheduled Tribe community and as such he is not entitled for any promotion under reserved quota for scheduled Tribe.

It is further, submitted that the complainant has been issued with letter No. P.117/VI/PGK/4209 dated 27/29.2.88 in this behalf informing of the decision.

The contemners submit that the directions of the Honourable Tribunal issued by it vide order dated 16.10.1986, in the original application No: 922/86, have thus been complied with.

Wherefore, the contemners Pray that the Honourable Tribunal may be pleased to drop the contempt proceedings against them, in the ends of justice.

For and on behalf of contemners

M. R. R. Badagi
Advocate for
contemners.

Signature

Designation. *डॉ. ए. ए. / हुबली कारखाना*
C.W.M. / UBLS

Verification.

I.R.R.Badagi, CWM/UBLS, do hereby declare that, what is stated above is true to the best of my knowledge, information and belief.

Place: Hubli.

Date: 19-3-1988

Signature

Designation. *डॉ. ए. ए. / हुबली कारखाना*
C.W.M. / UBLS

In the central Administrative Tribunal
Bangalore Bench

C.C.A. 52/87

Complainant:- P. G. K. Murthy
-vs.

Contemners:- General manager
and another

Memo

The contemners produce herewith ~~the~~ ^a copy of the
order ~~order~~ bearing no. L/P-117/VI/Pgk/4209
dated 27/29-2-88 issued to the complainant,
for kind perusal of this Hon'ble Tribunal.

Bangalore
25.3.88

M. Sreekanth
Advocate for contemners

SOUTH CENTRAL RAILWAY

No. L/P.117/VI/PGK/4209.

C.W.M's Office,
Hubli Workshops,
Dated: 27-2-1988.

Shri. P.G.K. Murthy,
T.No. 4209, HS.TLF.,
SS/TLW/UBLG.

Through SS/TLW/UBLG.

Sub: W.P.No.23723/82 in High Court/SB. — F36

Ref: 1. CAT/SBC Judgement in case No.922 of 1986
dated: 16-10-1986. — F34

2. This office letters of even No. dated: 15-1-86,
19-1-86, 2-2-88 and 23-2-88. — F67.

C F 32 C F 66

In accordance with the directives contained in para 8 (a) of the above Judgement dated: 16-10-1986, an opportunity was given to you to establish your caste certificate by producing latest caste certificate from competent authority in terms of extant instructions on the subject.

2. To give you an opportunity, an enquiry was held on 17-8-87, which you have attended. During the course of interrogation, you have admitted that you are a native of Machalipatnam. Thus it is necessary that you should produce the latest caste certificate regarding your claim to belong to "Konda Kapu" caste now treated as ST from MM authorities in terms of GOI-MOH Memorandum No. BC-12025/II/79-SC-BCD/I/IV of 29-3-82 (Circulated by CPO/SC No. P(RES) 171/Policy/Vol.II of 18-4-81). You were given time upto 20-2-88 to produce the said certificate vide this office letter of even No. dated: 5-2-88 so far you have not complied with this.

3. As a natural corollary/consequence of your failure to produce the caste certificate from the competent authorities by the deadline communicated to you, your case goes by default and you are treated as belonging to other caste. This closes the correspondence on the subject, which please note.

Please note and acknowledge.

For C.W.M. 1/8/88

OTC 27/2

Earlier draft - typed - contained
many mistakes. Redone by

①
29/2
(Pakureddy)

② Saved in my presence

29-2-88
(V.D. Kulkarni)
H.C. / TLW / UBLG

② Saved by me personally

27/2

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 25TH DAY OF MARCH, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

CONTEMPT OF COURT APPLICATION NO. 52/1987

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Major, South Central Railways,
Resident of Hubli,
District Dharwad.

.... Petitioner.

(Shri R.U. Goulay, Advocate)

v.

1. The General Manager,
South Central Railways,
at Secunderabad, A.P.

2. The Divl. Railway Manager,
South Central Railways,
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R. S. P. S. S. S.
VICE-CHAIRMAN 25/3/1988

[Signature]
MEMBER (A) 25/3/88

np/Mrv.