

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH (16)
AT : HYDERABAD

O.A.No.350 of 1987

Date of Order: 1-3-1990

Between:

G. Subba Rao ..

Applicant

and

1. Chief Personnel Officer, South Central Railway, Secunderabad.
2. Selection Board rep. by Chairman (Chief Personnel Officer), Secunderabad.
3. Divisional Railway Manager (BG Division), South Central Railway, Secunderabad.

.. Respondents

Appearance

For the Applicant : Shri Y. Jagan Mohan, Advocate.

For the Respondents : Shri N. R. Dev Raj, Standing Counsel for Railways.

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The Honourable Shri B. N. Jayasimha, Vice-Chairman.

The Honourable Shri D. Surya Rao, Member (Judicial).

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D. SURYA RAO,
MEMBER (JUDICIAL))

1. The applicant herein states that he belongs to Kondakapu community which is recognised as Scheduled Tribe. On the basis of his caste, he was selected on 5-11-1959 and was appointed as Junior Clerk and posted in Agra Division of the South Eastern Railways. The applicant had produced a certificate issued by the local M.L.A. ^{that} as he belongs to 'Kondakapu'. Apart from this, the applicant also produced ^a the School Leaving Certificate issued by the Board of Secondary Education. In the year 1966, he came to South Central Railway by exercising option. In 1973 he was promoted as Adhoc Personnel Inspector

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At that time, the 3rd respondent directed the applicant again to produce the proof of his caste apart from M.L.A. certificate. Therefore, the applicant furnished the Caste Certificate issued by the First Class Magistrate, City Criminal Courts, Secunderabad, testifying the fact that the applicant belongs to the caste called 'Kondakapu', and the same was accepted and the applicant was continued as Addl. Personnel Inspector till November 1974. Later, due to non-availability of posts, the applicant was reverted back. Thereafter regular selections were made and the applicant came to be posted as Assistant Personnel Inspector and was posted at Senior Divisional Personnel Office, Secunderabad.

2. After functioning for four years, his turn came ^{up} for promotion and he was promoted as Head Clerk w.e.f. 3-8-1979. He was once again promoted as Chief Clerk w.e.f. 1-6-1979 through orders dated 27-9-1980. He was again accorded his due promotion as Office Superintendent in the same office at Vijayawada w.e.f. April 1981. The next promotional post is Assistant Personnel Officer. This promotion is referred to as promotion from Class-III to Class-II. The applicant appeared for the selection, passed the written examination and was called for the viva-voce in June 1985. He states that he has duly passed written test and also viva-voce and by virtue of his being the seniormost among the selected personnel, he should be included in the panel, but his name has not been ^{so} included, so. He was once again asked to produce the Caste Certificate in proper proforma, i.e., after 27½ ^{his} years of service. He states that it is impossible for him ^{now} to produce this Caste Certificate. Under the pretext that an enquiry as regards the applicant's community is still pending, the applicant was denied of his due promotion, while

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nine of his juniors were already promoted in the last one year. He was informed on 22-4-1987 by the office of the 1st respondent ^{informing} that his case is not being considered as there is a dispute with regard to the community to which he belongs, which appears to have come to light at the time of selection of applicant for his due promotion as Assistant Personnel Officer. He has also been threatened of disciplinary action. The applicant contends that neither the first respondent nor the second respondent herein are entitled, in Law and on facts of the case, to deny the applicant of his due promotion. He further states that if there is any doubt, the respondents should make their own enquiries by giving the applicant due opportunity, but not to stop his due promotion. The applicant, therefore, seeks a direction or order to the respondents directing them to refrain from initiating any action pursuant to letter No.P/CON/607/GAZ/PB/Vol.II, dated 22-4-1987, issued by the 3rd respondent.

3. We have heard the learned Counsel for the Applicant, Shri Y.Jagan Mohan, Advocate, and the learned Standing Counsel for the Railways, Shri N.R.Dev Raj, for the respondents.

4. ^{It is understood that RT} The applicant, ^{who} has entered the Respondents' service as ^a Scheduled Tribe candidate and has been continuing as such all these years, can ^{now} not be denied promotion on the ground that his caste has to be once again verified. The Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Railway Services contains instructions issued by the Railway Board from time to time on this matter. It is made clear therein as to ^{who are} ~~where~~ the authorities or officers to issue certificates in regard to the caste for a member of the SC or ST. It is ^{told down} ~~written~~ in Railway Board's letter No.E(SCT)74 CM 15/

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46, dated 19th February 1976 and letter No.74E(SCT)/15/46, dated 23rd June 1977 that once evidence is produced from the competent authority that a candidate belongs to the Scheduled Tribe then without further delay such candidate should be appointed provisionally on the basis of whatever prima facie evidence that he is able to produce in support of his caste including caste certificates issued by the Members of Parliament/Members of Legislative Assemblies. The instructions further clarify that after such provisional appointment ^{the} ~~such~~ claim should be verified in due course through the District Magistrate of the place, where the candidate and/or his family ordinarily resides. Once again in the Railway Board's letter No.78E9SCT)/15/29, dated 12th July 1978, the Board has observed that it is concerned at the increasing incidence of complaints against the Railway administration that claims of unreserved community employees as SC, ST on the basis of certificates obtained by them from Civil Authorities have not been verified properly. While referring to ^{the} earlier Railway Board's letter dated 19-2-1976, it was made clear in the letter dated 12-7-1978 as to the manner in which the claims can be verified. It ^{was} ~~is~~ once again reiterated ~~here~~ that such claims should later ^{be} ~~later~~ verified by the District Magistrate of the place where the candidate and/or his family ordinarily resides. These instructions ^{also specify and finally clarify that the A- also provide for} verification regarding caste/tribe status by the Civil Authorities.

5. Thus, it is clear that the verification of the status of an employee claiming to be belonging to SC/ST communities has to be done only through the District Magistrate concerned. It is not brought to our notice that in

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To:

1. The Chief Personnel officer, south central railway, Secunderabad.
2. The Chairman, Selection Board, (Chief Personnel officer), Secunderabad.
3. The Divisional Railway Manager (BG division) - south central Railway, Secunderabad.
4. One copy to Mr. V. Jagan Mohan, Advocate, 1-1-336/35, Viveknagar, Hyderabad-500 020.
5. One copy to Mr. N. R. Devaraj, SC for Rlys., CAT, Hyderabad.
6. One ~~xx~~ Spare copy.

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the instant case that any such verification has taken place or has been done. The impugned letter states that the applicant was called upon to produce the necessary certificate from the proper authorities, that since he has failed to do so, action is proposed to be taken in finalising the selection to the post of Assistant Personnel Officer. This procedure of denying the applicant promotion on the ground that he has not produced once again the certificates is not in accordance with the instructions contained in the Railway Board's letter dated 19-2-1976 and 12-7-1978. As already stated, once an appointee was eligible for appointment as member of the SC/ST community, the procedure for verification of their caste is only after due enquiry of the District Magistrate. Till such verification is done, he will continue to enjoy the rights of SC/ST.

6. The respondents are accordingly directed to ^{to treat as} continue the applicant as belonging to Scheduled Tribe and give him the benefit of such promotion as he is eligible for. ^{It is however open to the respondents to make} by making a reference to the District Magistrate and take further action in accordance with the rules.

With the above directions, the application is disposed of. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

D. Surya Rao
(D. SURYA RAO)
MEMBER (JUDL.)

Dated: 1st March, 1990
(Dictated in the open court)

nsr/vcr.

[Signature]
DEPUTY REGISTRAR (A)