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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.359/89

Dt.of decision: 10-11-93

Between:

K. Suryanarayana Murthy : Applicant

and

1. General Manager, SC Railway,
Personnel Branch,
Secunderabad.
2. Chief Personnel Officer,
S.C.Railway, Hqrs. Office,
Personnel Branch,
Secunderabad.
3. F.A. & C.A.O.,
S.C.Railway, Secunderabad.
4. State of Andhra Pradesh
represented by the Dist. Collector,
West Godavari, Eluru.

.. Respondents

Appearance

Counsel for the applicant: Sri K. Nagaraj

Counsel for the respondents: Sri N.R. Devraj, SC for
Railways

C o r a m:

The Hon'ble ~~Shri~~ A.B. Gorthi, Member (Administration)

The Hon'ble Shri T. Chandrasekhar Reddy, Member (Judl.)

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[Continuation of the Judgement of this Tribunal
dated 24-12-1990 passed in the O.A.]

[As per Hon'ble Sri T. Chandrasekhar Reddy, Member (J)]

In pursuance of the directions dated 24-12-90
in this O.A., the Dist. Collector, West Godavari

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submitted his report on 10-12-92. From the report of the District Collector, West Godavari dt.10-12-1992, it is evident, the District Collector, West Godavari, had asked the Revenue Divisional Officer, Narasapur as per his letter dt.20-6-91, to inquire into the caste status of the applicant herein and submit a detailed report. In pursuance of the said letter dt. 20-6-91 of District Collector, West Godavari district, the RDO, Narasapur had conducted a detailed inquiry regarding the caste status of the applicant. During the course of the inquiry, the RDO had inquired 12 witnesses including the applicant herein. After examining the said witnesses, and taking into consideration, the entire material before him, the RDO, Narasapur had come to the conclusion that the applicant herein Sri Pinninti Suryanarayana Murthy belonged to Turpu-Kapu community and that, the applicant had changed his surname as "Kirasana" and managed the authorities to get a false certificate stating that he belonged to Konda Dora community which comes under Scheduled Tribe. The RDO, Narasapur has also paid compliment to the applicant with sircatizm that the efforts of the applicant in getting false certificates were indeed commendable. The report of the R.D.O., Narasapur dt.17-8-92 had been sent by him to the District Collector, West Godavari. The District Collector, West Godavari had submitted to this Tribunal the ^{report} ~~request~~ of the R.D.O., Narasapur dt.17-8-92 with all the records along with his letter dated 10-12-92.

2. After the receipt of the Report of the RDO, Narasapur, along with the said letter of the District Collector, WG District, the OA was listed for further hearing.

3. We have heard Mr. K. Nagaraj, counsel for the applicant and Mr. N.R. Devraj, Standing Counsel for the respondents.

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4. As already pointed out, the District Collector, WG District had been directed by this Tribunal as per Judgement dt.24-12-1990 to submit a report regarding the caste status of the applicant. The said report as already indicated had been submitted by the District Collector, WG District on 10-12-92. So, there is more than 2 years delay in submitting the report by the District Collector, WG District. Hence, it is the contention of the learned counsel for the applicant as the report is belated, ~~and~~ the same is liable to be discarded. According to the learned counsel for the applicant, it is non-est on account of the delay it is submitted to the Tribunal and hence, the said report loses its credibility and significance. It is also further contended that the Collector had not submitted his report by causing inquiry directly and that the District Collector has delegated ^{The} RDO to cause inquiry which is not permissible.

5. As already pointed out, the applicant had participated in the inquiry that was conducted by the RDO, Narasapur. He had examined his own witnesses before the RDO, Narasapur who conducted the enquiry. In submitting the report, even though there is delay and is not submitted, within a period of two months as directed by this Tribunal, we are unable to understand how the applicant is prejudiced in any way in view of the delay in submission of the report. A person who complains delay should be able to establish that the delay has prejudiced him. However, in this case, the delay in submitting the report by the District Collector absolutely has no consequence, as the said delay has not affected the rights of the applicant in any way to establish that he belongs to

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Konda Dora community which is ^a Schedule Tribe. In view of the delay, if any valuable material has been lost or the statement of any material witness could not be recorded due to death or otherwise, it would open to the applicant to contend that he is prejudiced due to the delay. Such things have not happened in this case. So, we see no force in the contention of the learned counsel for the applicant that on account of the delay in submitting the report by the Distt. Collector, WG District with regard to the caste status of the applicant that he said report had lost its credibility and significance.

6. The contention of the learned counsel for the applicant that the said report is malafide cannot at all be accepted due to the fact that the inquiry had been ^{and impartial} conducted by an independent/officer of the status of RDO as indicated by this Tribunal in this judgement. The said RDO, Narasapur had no bias as against the applicant and had not denied any opportunity to the applicant to participate in the inquiry. So, in view of these circumstances, the fact that the report of the R.D.O. is malafide cannot be accepted.

7. The Bench has clearly directed the District Collector, WG District to cause an inquiry in this case and submit the report within two months from the date of receipt of the order dated 24-12-1990, along with the record of inquiry. As could be seen, the Bench itself had directed the District Collector, WG District, to cause inquiry by the R.D.O., Narasapur. The Bench had not specifically said that the District Collector, WG District alone had to make inquiry with regard to the caste status of the applicant. So, we do not see District Collector,

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WG District as having violated directions of this Tribunalin causing the inquiry to be made by RDO, Narasapur. So, in view of this position, we see no substance in the argument of the counsel for the applicant that the District Collector having violated the directions of this Tribunal in not making the inquiry directly. So, none of the contentions of the learned counsel for the applicant do appeal to us.

8. It is vehemently contended that the Collector had not applied his mind and so the report has got to be rejected. The RDO, Narasapur, who had caused the inquiry and who was competent to make inquiry had applied his mind and has sent the report to District Collector. In view of the opinion expressed by the RDO, there was no need for the District Collector, WG District to express any separate opinion as the judgement dated 24-12-90 does not call for the opinion of the District Collector with regard to the caste status of the applicant.

9. It is nextly contended by the learned counsel for the applicant that, in view of the voluminous evidence in favour of the applicant that the applicant belongs to the Schedule Tribe community should have been accepted by the R.D.O., Narasapur. It is axiomatic to say that evidence has got to be weighed but not to be counted. To accept a particular fact, it is not necessary that the number of the witnesses that are examined should be counted. It is quality of the evidence that matters. One Sri Duvvani Mahankali S/o Kannayya, aged 95 years gave his statement before the inquiry officer. He has stated that he is aged 95 years, and that, he was born in Chennuru village of Krishna District and that, about 50 or 60 years back, ten families of Konda Dora community were living in Venkata-

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rajapuram H/o Pamulaparru and that they were sad to have migrated from Srikakulam District and that he knows Chikati Ramulamma (whom the Applicant claims as his mother's mother). He further stated that, the said Chikati Ramulamma got married to Sambasivudu of Gudlavalleru village and that, she had no issues and that, after some time her husband died and since then Ramulamma is residing in Venkatarajapuram H/o Pamulaparru village. He further stated that he did not ever see Paiditali (Daughter of Ramulamma who the applicant claims as his natural mother) that Kirasanala Lakshmaiah is the brother of Ramulamma that Ramulamma had no daughters and that, he did not know when and where Lakshmaiah got married. He also stated that about 20 years back only School was established in their village and he did not know the working of a Teacher by name Pinninti Apparao in their village.

10. The evidence of the above witness appears to be natural. He is an elderly and aged person. He does not have any motive to speak falsehood as against the applicant. It is not the case of the applicant that the said witness has been set up by anybody and had been made to speak falsehood. The case of the applicant is that he was born on 20-9-52 in Pamulaparru village as per his grand mother's version but he did not know whether his birth had been registered in the birth register of the village, that he was the second issue to his parents and that the name of his father was Kirasanala Lakshmaiah that when his elder sister Suryakantham was two years old and he was 3 months old, when his mother (Paidithalli) eloped with one Sri Pinninti Apparao who was working as School teacher in Pamulaparru village and shifted their residence to Undi village and that he and his sister got educated by

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Sri P. Appa Rao and that, his step-father (Pinninti Appa Rao) had three children through his mother ^{whose names} ~~via.~~, Jaya, Revathi and Bala and that, his mother Paiditali died in the year 1968, and that, his step father also died in the year 1975. Of course, the said Sri P. Appa Rao had died in 1975 and prior to that his wife had died.

11. In view of the evidence of Duvanna Mahankali, the fact that Paiditali had eloped with said P. Appa Rao cannot at all be believed. In his detailed report, the RDO, Narasapur had summarised the evidence of the witnesses and had commented on the credibility of the witnesses. The RDO, taking into consideration the evidence of D. Mahankali, and also the other oral evidence and also the pension authorisation given to the applicant by the said Appa Rao, had rightly come to the opinion that the applicant does not belong to Konda Dora community which is scheduled Tribe community and that the Applicant belongs to Turpu Kapu community which is a forward caste. The R.D.O., Narasapur had given a categorical finding that Ramulamma whom the Applicant claims as his mother's mother had no female issues at all. Hence the fact that Paiditali is the daughter of Ramulamma and that the said Paiditali is the wife of Kirasanala Lakshmayya and is the mother of the applicant who had eloped with Pinninti Appa Rao, an elementary School Teacher when the applicant was aged two or three months old cannot be accepted. After going through the entire material we are in full agreement with the opinion expressed by the Revenue Divisional Officer, Narasapur that the applicant does not belong to Konda Dora community which is a scheduled Tribe community but belongs to Turpu Kapu community.

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12. One more circumstance will clearly establish that the applicant does not belong to Scheduled Caste community. The applicant is said to have born in the year 1952. In the school records and the university records, the applicant had been described as belonging to Turpu Kapu community which is a forward community. During the student career, the applicant certainly would have known the same, if he belonged to Scheduled Tribe community and would have availed all the facilities and priveleges which other SC/ST people enjoyed while studying in Schools/Universities. Strangely, the applicant could know about to which community he belongs, only in May 1981 as some of the villagers taunted him by saying that he is the son of Kirasanala Lakshmayya and not Pinninti Appa Rao. The applicant is then said to have made enquiries from his grand mother Chikati Ramulamma and other elders of the village and came to know that he was born to Kirasanala Lakshmayya of Konda Dora community through Paiditali. If that is so, we are unable to understand when he applied in the early part of the year 1980 for the post of Accounts Clerk Grade I in railways, how he could describe himself that he belonged to Konda Dora community which is a Scheduled Tribe. So, it is quite evident that the applicant had described himself as Scheduled Tribe candidate when he applied for the said post in the Railways though he belonged to Forward Community purely with a view to make sure of his job as there would have been no Scheduled Tribe community candidate competing for the said post. By the year 1980, the applicant should have been aged more than 27 years as he claims to have born in the year 1952. If the applicant belonged to Scheduled Tribe as already pointed out

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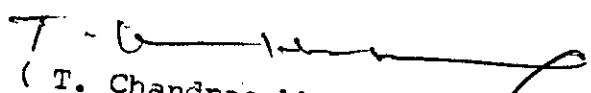
even during his college days (as the applicant is a B.Com graduate) he would have known that he belonged to Scheduled Tribe community. Very strangely, the applicant came to know about the said fact only in the year 1981 and he ^{pleadingly} approached the Civil Court for a decree to declare that he belonged to Scheduled Tribe community, after procuring certain documents in his favour. His silence from the time he attained majority, for nearly a period of 10 years without moving his little finger to establish his caste status would cut at the root of the case of the applicant that he belonged to Scheduled Tribe community. The silence of the applicant till he attained 27 years to establish his caste status and the delay on the part of the applicant in approaching the judicial forum to establish his caste status ~~are~~ are certainly inexplicable and from which an adverse inference to the case of the applicant has got to be drawn. We have ^{also} ~~also~~ perused the records that ~~was~~ placed before us prior to 1980. The applicant had been treated as the son of P. Apparao and the said Appa Rao had also authorised the applicant as his son to receive pension. Unless the applicant is the natural son of the said Appa Rao, we fail to understand why the said Appa Rao should treat the applicant as his natural son. Absolutely, there is no acceptable evidence to come to the conclusion that the applicant belongs to Scheduled Tribe community. Taking into consideration ~~of~~ all the facts and circumstances of the case, we do not have slightest doubt that the applicant belongs to Turpu Kapu community which is a forward community but not to Konda Dora community which is a Scheduled Tribe community. The applicant is not entitled for the relief which he has prayed for in this O.A. and the O.A. is dismissed


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leaving the parties to bear their own costs.


(T. Chandrasekhara Reddy)
Member (Judl.)


(A.B. Gorthi)
Member (Admn.)

Dt.: 10-11-, 1993
(By circulation)


Deputy Registrar (J)

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To

1. The General Manager, S.C.Rly,
Personnel Branch, Secunderabad.
2. The Chief Personnel Officer,
S.C.Rly, Hqrs, Office,
Personnel Branch, Secunderabad.
3. The F.A. & C.A.O., S C.Rly,
Secunderabad.
4. The Dist.Collector, State of A.P.
West Godavari, Eluru.
5. One copy to Mr.K.Nagaraj, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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