

43

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 929/89.
T.A.No.

Date of Decision : 4/1/1991

T. V. Subba Rao

Petitioner.

Sri Duba Mohan Rao

Advocate for the
petitioner (s)

Versus

Chief Commissioner of

Respondent.

Income Tax, A.P., Hyd

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. B.N.JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE MR. D.SURYA RAO : MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *yes*
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

B.N.J
(B.N.J)
VC

D.S.R
(D.S.R)
M(J)

26/CF

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.929/89.

Date of Judgement: 4-1-91

T.V. Subba Rao

...Applicant

vs.

The Chief Commissioner of
Income-Tax, Andhra Pradesh,
Ayakar Bhavan, Basheer Bagh,
H Y D E R A B A D.

...Respondent

Counsel for the Applicant : Shri Duba Mohan Rao

Counsel for the Respondent : Shri E. Madan Mohan Rao, Addl.CGSC

CORAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIAL)

(Judgment of the Division Bench delivered by
Hon'ble Shri B.N.Jayasimha, Vice-Chairman)

The applicant is a U.D.C. in the Income-tax office Circle-II, Hyderabad. He states that he was initially appointed as L.D.C. in a vacancy reserved for a Scheduled Tribe. He belongs to Benthoo-oriya community which is recognised as a Scheduled Tribe. He produced a certificate dated 22-1-1972 issued by the Tahsildar, Vijayawada stating that he is a Scheduled Tribe. He was promoted in the year 1982 as a UDC. By a memo No:Con.Vig.B.161 dated 8-9-89 he was asked to appear before the Director of Tribal Research Institute, Hyderabad on 25-9-1989 with all documentary and other evidence in support of his social status. As no reasons were given for the issuance of the memo dt.8-9-1989, the applicant submitted a representation on 21-9-1989 requesting that

reasons as to why he is asked to appear before the Director of Tribal Research Institute may be intimated to him. He also requested that a copy of complaint, if any may be given to him. In memo No.Cen.Vig.B.161 dated 8-11-1989 the respondents informed the applicant that he has dis-obeyed the order dt.8-9-89, which would prima-facie amount to gross and wilful misconduct within the meaning of CCS and CCA rules and warned him to be careful in future. The applicant was again directed to appear before the Director, Tribal Research Institute. Applicant contends that it is not open to the Respondent to direct him to appear before the Director of Tribal Research Institute, Hyderabad, as the Government of Andhra Pradesh in G.O.Ms.No.282 dt.19-12-1982 has specified the authorities competent to cancel the false caste certificates are the District Magistrates/Additional District Magistrates of the Revenue Department. If the respondent entertained any doubt regarding his social status, the Respondent cannot direct the applicant to present himself before the Director of Tribal Research Institute. He has therefore filed this application for declaring the memos dt.8-9-89 and 8-11-89, directing him to appear before the Director of Tribal Research Institute is illegal and arbitrary.

2. The Respondents in their counter say that the applicant was asked to appear before the Director of Tribal

FWI

contd..3..

Research Institute by way of a preliminary enquiry. The Central Government has a right to verify the Caste Status of SC/ST at any time as per orders in O.M.No.36011/16/80-Estt.(SCT) dt.27-2-1981 issued by the Department of Personnel & Administrative Reforms. They also contends that the Director of Tribal Research Institute is competent to verify the correctness of the certificate produced by the applicant and that the enquiry before the Director of Tribal Research Institute is a preliminary enquiry only. The contention of the applicant that he cannot be directed to appear before the Director of Tribal Research Institute is not valid is therefore untenable.

3. The applicant in a reply states that the Director of Tribal Research Institute is not an authority to verify the genuineness or correctness of the caste certificate. He reiterates his contention that only the District Magistrate/Additional District Magistrate is competent to do so.

4. We have heard the learned counsel for the applicant Shri Duba Mohan Rao and Shri E.Madan Mohan Rao, learned standing counsel for the Respondent. Relying upon the brochure on Reservation for SC and ST, 7th addition, issued by the Government of India, the learned counsel for the applicant refers to chapter-13, which deals with verification of the certificates issued by various auth-

bis

rities. He states that according to the instructions, the competent authority to verify the correctness of the certificates in regard to the social status is the District Magistrate/Additional District Magistrate of the place where the candidate or his family originally resides. Even for the purpose of re-verification/cancellation of the certificate also, it is the same authority. This contention of his is fortified by the decision of the Andhra Pradesh High Court reported in 1990(3)ALT 355, where the division bench of the High Court observed that the Director of Tribal Research Institute has no authority to cancel the Schedule Tribe certificate issued by the competent authority in view of G.O.No.282, Social Welfare (J2) Department, Government of Andhra Pradesh, dt.19-12-1988. This G.O. states that the state Government after careful examination of the matter authorised the District Magistrate/Additional District Magistrate of the Revenue Department to cancel the false Scheduled Castes/Scheduled Tribe and Backward community certificates issued by non-officials and officials duly following the procedure prescribed and giving an opportunity to the individual concerned to be heard,. No other instructions have been issued by the Government of Andhra Pradesh empowering the Director of Tribal Welfare to conduct enquiries or to cancel the certificates issued by competent authorities.

b7i

5. On careful perusal of the instructions contained

To

1. The Chief Commissioner of Income-Tax,
A.P., Ayakar Bhavan, Basheer Bagh, Hyderabad.
2. One copy to Mr. Duba Mohan Rao, Advocate CAT.Hyd.Bench.
3. One copy to Mr.E.Madanmohan Rao, Addl. CGSC. CAT.Hyd-Bench.
4. The Dy.Registrar, Central Admn., Tribunal, Madras Bench, Tamilnadu Text Book Society Building, D.P.I. Compound, Nungambakkam, Madras-600035.
5. The Dy.Registrar, Central Admn., Tribunal, Calcutta Bench, CGO Complex 234/4-ADC Base Road, Nizam Palace, Calcutta-700020.
6. The Dy.Registrar, Central Admn.Tribunal, Bombay Bench, CGO Complex(CBD), 1st floor, New Bombay-400614.
7. The Dy.Registrar, Central Admn.Tribunal, Chandigarh Bench, S-86 No.102-103, Sector-34, Chandigarh.
8. The Dy.Registrar, Central Admn., Tribunal, Allahabad Bench, 23-A, Thorn Hill, Road, Allahabad-211001.
9. The Dy.Registrar, Central Admn.Tribunal, Guwahati Bench, Rajgarh Road, Guwahati P.B. No. 58, G.P.O. Guwahati. 781001
10. The Dy.Registrar, Central Admn.Tribunal, Bangalore Bench, Commercial complex (BDA), Indira Nagar, Bangalore-560030.
11. The Dy.Registrar, Central Admn.Tribunal, Ernakulam Bench, Kandamukulathil Towers, 5th & 6th floors, Opp. Mahadeva College, M.G.Road, Ernakulam, Cochin-682001.
12. The Dy.Registrar, Central Admn.Tribunal, Jabalpur Bench, CARVS Complex, 15-Civil Lines, Jabalpur, M.P.
13. The Dy.Registrar, Central Admn.Tribunal, Patna Bench, 32-A, B.M.Enterprises, Shri Krishna Nagar, Patna-1.
14. The Dy.Registrar, Central Admn.Tribunal, Jodhpur Bench, C/o. Rajasthan High Court, Rajasthan(Jodhpur).
15. The Dy.Registrar, Central Admn.Tribunal, Admadabad Bench, Navarang Pura, Near Sardar Patel Colony, Osmania, Ahmedabad
16. The Dy. Registrar, Central Admn.Tribunal, Cuttack Bench, 14th floor, Rajendra Bhawan, Cuttack. 753002 (ORISSA).
17. The Dy.Registrar, Central Admn.Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi-110001.
18. Sri Sanjeev Mithotia, Managing Editor, All India Services Law Journal, 22, Tagore Park, New Model Town, New Delhi-9.
19. The Editor, Kerala Law Times, High Court Road, Ernakulam, Cochin-602031.
20. M/s. Eastern Book Company, 34, Lalbagh, Lucknow.
21. M/s. Delhi Law Times, 5355, Jawaharnagar, Kolhapur Road, Delhi-7.
22. Sri Hasin Ahmad, S-1, Representative Reporter, A.I.R.Ltd, No.21-1-1964&1965, Gandhi Bazar, Opp. High Court Bar Association, Hyderabad.
23. The Administrative Tribunal Reporter, Bhagat Singh Market, 90, New Delhi-11 110001.
24. Sri KBS Sarma, General Secretary, All India Equal Rights Association, C-58, HUDA Residential Complex, Vanasthalipuram, Hyderabad.
25. The Dy.Registrar(J), Central Admn.Tribunal, Hyderabad Bench, Hyderabad.
26. One copy to Library, CAT, Hyderabad Bench, Hyderabad.
27. TWO Spare copies.

in the Brochure and the State Government orders referred to above, we find considerable merit in the submissions made by Shri Duda Mohan Rao, learned counsel for the applicant. Accordingly we find that the applicant cannot be directed to appear before the Director of Tribal Welfare for re-verification of the caste certificate. If the respondents wish to get any verification done, they can only do so by referring the matter to the District Magistrate/ Additional District Magistrate of the concerned Revenue District as laid down in the Government of India guidelines and in the G.O. issued by the Andhra Pradesh State Government.

6. In the result the impugned notice dt.8-9-1989 and subsequent notice dt.8-11-1989 directing the applicant to appear before the Director, Tribal Research Institute, Hyderabad are set aside. This order does not bar the respondents to get the verification of the caste of the applicant through the concerned District Magistrate/ Additional District Magistrate done in accordance with the instructions. The application is allowed subject to the above observation. There will be no order as to costs.

B.N.Jayasimha
(B.N.JAYASIMHA)
Vice-Chairman

D.Surya Rao
(D.SURYA RAO)
Member (J)

Dated: 4th January, 1991. *18/1/89*
Dictated in Open Court. *18/1/89* Deputy Registrar (Judl)

*Very
Very
Very*
6

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA MURTY:M(J)

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

Dated: 6-1-1991.

~~ORDER~~ JUDGMENT:

M.A./R.A./C.A. NO.

in

T.A. No.

W.P. No.

O.A. No. 929/89

Admitted and ~~for amendment/objection~~
issued.

DESPATCH

Allowed

REPLIED

Disposed of with ~~direction~~ ~~REPLIED~~

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.