

(49)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 891/91.

Dt. of Decision : 24.1.95.

Q. Janaki Bai

.. Applicant.

Vs

1. Union of India, rep. by the
Sr. Supdt. of Post Offices,
Indian Posts and Telegraphs Department,
Hyderabad City Division,
Hyderabad - 500 001.
2. The Joint Collector & Additional District
Magistrate, Hyderabad District, Hyderabad.
3. Sri Satyanarayana Sarma .. Respondents.

Counsel for the Applicant : Mr. Y.Vijaya Sankar

Counsel for the Respondents : Mr. N.R.Devaraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN.

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

I AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN I

J U D G E M E N T

Dt. 24-1-95

Heard Shri Y. Vijaya Sankar, learned counsel for the applicant and also Shri N.R. Devaraj, learned Sr. standing counsel for the Respondents.

2. The applicant applied for the departmental examination for the recruitment to the cadre of Class.IV on 5-8-78 for vacancy for S.Cs by claiming that she belongs to SC (Mala). On the basis of her performance in the said examination, she was selected and appointed to the cadre of Class.IV by memo. issued by the Supdt. of Post offices, Hyderabad West. Later she was promoted to the cadre of postman as against the SC point.

3. The President of A.P. Weaker Section Welfare Association by letter dated 24-8-86 made a complaint to the employer of the applicant stating that the applicant belongs to the backward class community and the school records corroborate ~~xxxx~~ the above allegation.

4. It is stated that on the basis of the said complaint, some preliminary enquiry was made and then charge memo. dated 27-7-88 was issued to the applicant and thereby disciplinary proceedings were initiated against the applicant by alleging that she had falsely claimed SC status and secured appointment for the vacancy reserved for SC community.

5. The enquiry officer submitted a report holding the charge proved. But the disciplinary authority dropped proceedings by observing that it is a matter for enquiry by the Revenue authorities and hence the charges were being dropped vide memo. dated 27-7-90.

6. When R2, the Joint Collector, Hyderabad District, Hyderabad communicated to the Asst. Supdt. of Post offices by letter dated 23-11-90, the report which states that the applicant obtained a false caste certificate to the effect that she belongs to SC community, charge memo. dated 1-5-91 was issued by the disciplinary authority by alleging that she obtained appointment for the post reserved for SC community by falsely claiming SC status. This OA was filed on 9-9-91 praying for quashing the said charge memo. dated 1-5-91.

7. The contentions raised and urged for the applicant are as under:

1. When the first charge memo. dated 27-7-89 was dropped, it is not open to the Respondents to issue a fresh charge memo. for the same allegations.

2. The enquiry should not have been entrusted to the same enquiry officer who had earlier enquired the case, as he found the charge proved.

3. R3 who was appointed as enquiry officer in the enquiry conducted in pursuance of the charge memo. dated 27-7-89 held the applicant guilty for the charge. But the said enquiry proceeding was dropped as disciplinary authority held that it is for the Revenue authority to decide about the social status of the applicants. Hence the enquiry should not have been entrusted to R3, the same enquiry officer, urged the learned counsel for the applicant.

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8. At the time of hearing of this OA it was urged for the applicant that even during the enquiry, the applicant stated that her mother belongs to SC community and she is entitled to claim the social status of her mother as per G.O.M.S. No. 371/E&SW.

9. We will refer to the second contention first. It is now stated for the applicant that on the basis of her representation made in June, 1991 to the concerned authority, the enquiry officer was changed. As such, the said contention no longer survives.

10. Disciplinary authority dropped the proceedings in pursuance of the charge memo. dated 27-7-89 by holding that it is for the revenue authority to decide about the social status of the applicant. The impugned charge memo. dated 1-5-91 was issued on the basis of the report dated 23-11-90 of the Joint Collector that the applicant is a B.C. When the impugned charge memo. was issued on the basis of the additional facts and when the original enquiry was dropped only on the ground that it is a matter for consideration by the Revenue authority, the contention for the applicant that it is not open to the competent authority to issue the impugned charge memo. dated 1-5-91 after the enquiry in pursuance of the charge memo. dated 27-7-89 was dropped is not tenable.

11. The questions as to whether the applicant's mother is of SC community and whether the GO MS dated 13-4-76 of A.P. State Government referred to supra is applicable in regard to the applicant or whether the Central Government also issued similar G.O for it is stated that even the A.P State Government issued G.O M.S 371 dated 13-4-76

To

1. The Sr.Superintendent of Post Offices,
Indian Posts and Telegraphs Department,
Hyderabad City Division, Union of India,
Hyderabad-1.
2. The Joint Collector & Additional Dist.Magistrate,
Hyderabad Dist.Hyderabad.
3. One copy to Mr.Y.vijayakumar, Advocate, 6-1-343/2
Padma Rao Nagar, Secunderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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Jacob

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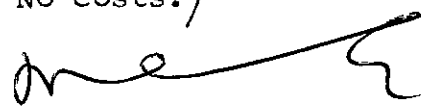
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on the basis of the guidelines laid down by the Central Government are matters for consideration in the enquiry. It is stated for the applicant that even in the school certificate of the applicant and also of her sister, the social status was referred to as SC. It is open to the applicant to rely upon the same and if they are relied upon it is for the concerned authority to decide in accordance with law. As they are matters for consideration during the enquiry, it is not just and proper for this Tribunal to consider them at this stage.

12. We make it clear that it is open to the applicant to raise any other plea on questions of fact or questions of law, if so advised during the enquiry. The learned counsel for the applicant stated that there is no basis for the report dated 23-11-90 of the Joint Collector to hold that the applicant belongs to B.C community. It is also one matter for consideration during the enquiry.

13. In the result, we find that there are no grounds to quash the charge as per memo. dated 1-5-91 and it is a matter for consideration during the enquiry. Accordingly, the OA is dismissed.

No costs./


(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

NS

Dated 24-1-95
Open court dictation


Deputy Registrar (J) cc.

PS JV

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN : M(ADMIN)

DATED: 24/1-1995

~~ORDER~~ JUDGMENT:

M.A./R.A/C.A.No.

in

O.A.No. 891/91

T.A.No. (w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs

no spare copy

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