

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A. NO. 18 OF 1992

B e t w e e n -

M. Rama Devi

.. Applicant

A N D

The General Manager,
South Central Railway,
Secunderabad and another

... Respondents.

COUNTER AFFIDAVIT FILED ON BEHALF OF RESPONDENTS

...

I, Smt. Padma Iyengar, W/o Iyengar, Aged 57 years,
Occ: Financial Adviser & Chief Accounts Officer, South
Central Railway, Secunderabad, solemnly and sincerely
affirm and state as follows:-

1. I am working as Financial Adviser and Chief
Accounts Officer, South Central Railway, Secunderabad
and as such I am well acquainted with the facts of the case.
I am filing this counter affidavit on behalf of respon-
dents as I am authorised to do so.

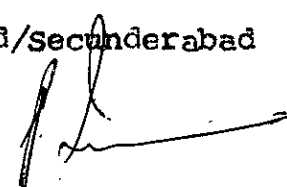
2. I submit that I read the application filed by
the applicant in O.A. No. 18 of 1992 and I submit that
the material allegations made therein are not true and
correct and do not disclose any valid or tenable grounds
to grant any reliefs in O.A. No. 18 of 1992 and material
allegations made therein which are not specifically
admitted in this counter affidavit shall be deemed to have
been denied by us.

3. It is submitted that the applicant was
selected by the Railway Recruitment Board/Secunderabad

1st page:-
Corrections:-

V. Chandrasekhar

ATTESTER
J.A.O. (ADMN)


DEPONENT
FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
SOUTH CENTRAL RAILWAY,
SECUNDERABAD.

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: 2 :

for appointment as Jr. Stenographer in scale Rs.330-560 (Rs.1200-2040 as per IV P.C. Revision). The applicant joined FA & CAO's Office on 15.03.82. She furnished a Caste Certificate that she was from "KONDAKAPU" Scheduled Tribe Community which she recorded in her service record in her own handwriting. Consequent on the declaration that she belonged to Scheduled Tribe Community, she was granted accelerated promotions as shown below which would not have accrued to her otherwise:-

1. Promoted as Sr. Stenographer in scale Rs.425-700 (now Rs.1400-2600) with effect from 08.12.82.
2. Promoted as Sr. Stenographer in scale Rs.550-750 (Rs.1600-2660) scale not in operation now) with effect from 10.03.86.
3. Promoted as Confidential Assistant in scale Rs.550-900 (now Rs.1640-2900) with effect from 14.07.86.

4. It is submitted that on the Brochure on Reservation for Scheduled Castes and Scheduled Tribes (third edition 1985) prescribed for Railway Services and published by the Govt. of India, Ministry of Railways, Railway Board, Para 2.10 is relevant, as it deals with place of residence/birth. The said para is reproduced hereunder:-

"2.10. Place of residence/birth:- The place of Birth of a person is not the determining factor in deciding the place of residence. Birth places of even two brothers may differ and in such a case, it is not justified to consider one as Scheduled Caste and deny the same treatment to the other. Therefore, the place of residence is to be determined with reference to the place/state to which the forefather of the person belongs irrespective of the fact that the person or his/her parents might have gone to some other place temporarily in search of employment".

2nd page:-
Corrections:-

V. Chandra Sekar

ATTESTER J. A. O. (ADMN)

FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
DEPARTMENT
SOUTH CENTRAL RAILWAY,
SECUNDERABAD.

5. It is submitted that the Director/Tribal Welfare/A.P. vide his lr.no.AO.RC. No.4205/86-TRI-VC-6 dt.6.6.87(copy enclosed) advised that she did not belong to Kondakapu community which means that the accelerated promotions granted to her are not in order as she does not belong to Scheduled Tribe. Had not the accelerated promotions been granted to her, she would have been working now only as a Senior Stenographer in scale Rs.1400-2600. During November, 1988 she was empanelled for promotion to scale Rs.2000-3200(RSRP) but was not promoted pending verification of Caste Certificate submitted by her from MRO/Malkajgiri/R.R.District. The applicant was provisionally placed on the panel, (included under Scheduled Tribe quota), her promotion to the above post being subject to the production of fresh caste certificate declaring her to belong to Scheduled Tribe from competent authority as the Social Status of the applicant was under investigation at that time. The applicant had produced a certificate No.C.556/89 dt.13.2.89 issued by Mandal Revenue Officer, Malkajgiri, R.R. Dist. which was not accepted by the Chief Personnel Officer of South Central Railway.

6. It is submitted that the Chief Personnel Officer on verification of the personal file and service register of the applicant found that she had produced the community certificate dt.17.8.81 issued by the Tahsildar, Vallabhnagar Taluk, R.R. Dist. A.P. However, in the RSC attestation form, she had mentioned that her father originally hailed

3rd page:-

Corrections:-

V. Chandrasekhar

ATTESTER

J. A. O. (ADMN)

[Signature]
DEPONENT
FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
SOUTH CENTRAL RAILWAY,
SECUNDERABAD.

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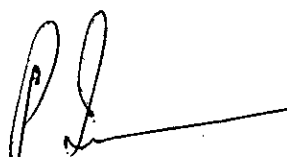
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from Nilavadi, Srikakulam District, A.P. As per extent orders, she has to produce the community certificate from the Revenue Authorities of her native district in the prescribed proforma. The Chief Personnel Officer made a reference to Director of Tribal Welfare, Hyderabad as he is the competent authority to conduct enquiries regarding the alleged false caste/community claims under A.P. State Government, (Social Welfare Department's) G.O. Ms.No.117 dt.1st July 1989 (copy enclosed as Annexure 'A') The Director of Tribal Welfare under Govt. of A.P. Tribal Welfare Department has categorically brought out in his letter dated 6.5.87 sent to the Railway along with enquiry report (copy enclosed as Annexure 'B') that Smt.M.Rama Devi does not belong to 'KONDAKAPU' though she belongs to 'KAPU' or 'NAIDU' caste, which is not declared as Scheduled Tribe. The Director of Tribal Welfare Department also advised the Railway to take disciplinary action against the applicant as per rules for producing false community certificate to get job in Railways. As decided by A.P. State Govt. vide G.O. Ms. No.117 dt.1.7.89, Director, Tribal Welfare is the competent authority to enquire and decide the genuineness of Caste Certificates issued in the State.

A reference was also made to the District Collector, R.R. District. The District Collector, R.R. District has issued a show cause notice (copy enclosed as Annexure 'C') to the applicant calling upon her to show cause as to why the Caste Certificate issued dated 18.8.81 from the Tahsildar, Vallabhnagar Tq. and Certificate No.C/556/89

4th page:-
Corrections:-

V-Chandra Sekhara
ATTESTER
J.A. O. (ADMN)


DEPONENT
FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
SOUTH CENTRAL RAILWAY,
SECUNDERABAD.

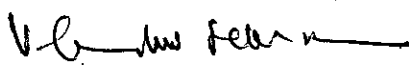
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dt.13.12.89 issued by the Mandal Revenue Officer, Malkajgiri should not be cancelled and also why criminal action should not be initiated against her for giving false information to obtain Caste Certificate. The said show cause notice was duly served on the applicant on 13.02.92 by the Railway Administration and the served copy was sent to the District Collector, R.R.District. The applicant did not submit her explanation. The District Collector, R.R.District after due enquiry into the matter cancelled the Scheduled Tribe Caste Certificate dated 18.08.1981 issued by the Tahsildar, Vallabhnagar Tq and Certificate No.C/556/89 dated 13.02.1989 issued by the Mandal Revenue Officer, Malkajgiri Mandal to the applicant (copy enclosed as Annexure 'D').

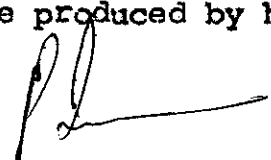
7. It is submitted that in view of the facts stated above, the applicant was not promoted as Confidential Assistant in Scale Rs.2000-3200 based on the empanelment made during the year 1988 as she was selected against the quota reserved for Scheduled Tribe and her community claim was under enquiry. The applicant's allegation that she has been working in the post of Confidential Assistant right from 23.12.1988 without getting any monetary benefit in the Grade Rs.2000-3200 is not maintainable, since her initial appointment to Railway Service on a false Caste Certificate is itself is under verification. The applicant was appointed in Railways as Jr.Stenographer in Scheduled Tribe Quota and got accelerated promotions as Sr.Stenographer and Confidential Assistant in scale Rs.1640-2900. But for the certificate as belonging to Scheduled Tribe produced by her

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Corrections:



ATTESTER

J.A. O. (ADMN)

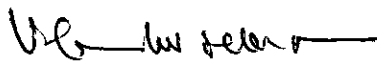

DEPONENT
FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
SOUTH CENTRAL RAILWAY,
SECUNDERABAD.

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she would not have got these promotions reserved for the candidates genuinely belonging to Scheduled Tribe Community. Now, as the claim of the applicant has been declared as false by Director of Tribal Welfare, she cannot be promoted to the post of Confidential Assistant in scale Rs.2000-3200(RSRP) though she was placed in panel announced in Dec. 1988. The applicant's representation dated 09.12.1981 was accordingly disposed of on 18.12.1991.

8. The applicant's allegation that the respondents issued notification dated 13.12.91 (copy enclosed as Annexure 'E') for filling up the vacancies of Confidential Assistants in scale Rs.2000-3200 in which post she is working right from 1988 is not correct. The applicant is actually working in scale Rs.1640-2900. She was not promoted to scale Rs.2000-3200 but was only empanelled. Her empanelment to the scale Rs.2000-3200 is provisional and subject to her production of valid community certificate and the same does not confer any right of promotion. The notification for filling up of vacancies of Confidential Assistants in scale Rs.2000-3200 was issued during the month of Dec. 1991 as there are vacancies for the said posts and the currency of the panel announced during Dec. 1988 has expired. Hence, the notification of December 1991 is in order and as per the extant rules. As the competent authority has declared that the applicant does not belong to Scheduled Tribe Community and in view of the fact that the Scheduled Tribe Certificates produced by the applicant have been cancelled by the District Collector, R.R.District she cannot claim any promotion under Scheduled Tribe quota.

6th page:-
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ATTESTER

J. A. O. (ADMN)


DEPONENT

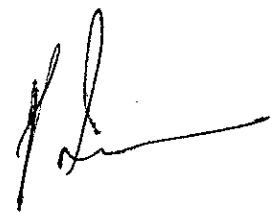
FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
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SECUNDERABAD.

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9. It is further submitted that since the Collector, R.R.District has cancelled the Scheduled Tribe Caste Certificates issued to the applicant based on which she was appointed into the Railway Service under Scheduled Tribe quota, action is being initiated against the applicant under Railway Servants (Discipline & Appeal) Rules, 1968. Accordingly, the applicant has been placed under suspension with effect from 30.04.1992.

10. Under the facts and circumstances stated above, the Hon'ble Tribunal may be pleased to vacate the interim order dated 09.01.1992 and dismiss the O.A. No.18 of 1992 as devoid of merits and pass such other order or orders as the Hon'ble Tribunal deems fit and proper.

Solemnly affirmed before me at Secunderabad this day of May, 1992 and signed her name in my presence.


FINANCIAL ADVISOR AND
CHIEF ACCOUNTS OFFICER,
DEPONENT
SOUTH CENTRAL RAILWAY,
SECUNDERABAD.
Before me.

7th and last page:-
Corrections:-


ATTESTING OFFICER.
J. A. O. (ADMN)



Before the Central Administrative
Tribunal, Hyderabad Bench at
Hyderabad.

O.A. No. 18 of 1992

Between:-

M. Rama Devi. Applicant.

and

The General Manager,
South Central Railway
Secunderabad & another ... Respts

Counter affidavit filed on
behalf of respondents.



Mr. J.R. Gopala Rao

Standing Counsel for Railways