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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.1194/93

Date of Judgement:24.9.93

M.Krishna Murthy

.. Applicant

Vs.

1.Union of India, rept. by
its Secretary, Department of Space
Control ISRO, Secretariat.
New Delhi.

2.The Head,
P2 G.A. Division, and
Disciplinary Authority for
Group 'C' employees.
Shor Centre, Srihari Kota
Nellore (dt).

.. Respondents.

Counsel for the Applicant : Mr. P.Phalguna Rao

Counsel for the Respondents : Mr. N.R.Devaraj

CORAM:

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

THE HON'BLE MR.P.T.THIRUVENGADAM : MEMBER (ADMN)

Contd., 2

11/10/93

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri P. Phalguna Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. The applicant secured job in the year 1988 as Technical Assistant, Grade B, in SHAR, Srihari Kota, Nellore, by claiming himself as belonging to SC Community in regard to the post reserved for SC Community. The SC Caste Certificate issued to the applicant in 1982 was cancelled on 18.11.1991. On the basis of the above cancellation, the second respondent issued show-cause-notice dated 13.2.1992 requiring the applicant as to why his services should not be terminated for producing false caste certificate. Then the applicant submitted his explanation on 4.3.1992, on receipt of the same R-2 issued memo dated 10.4.1992 to the applicant informing him that he should produce declaratory decree from a Civil Court of Competent jurisdiction to the effect that he belongs to Scheduled Caste community as contended by him and hence cancellation of the caste certificate of the Revenue Authorities in his case is null and void, by adding both the Department and the concerned District authorities as parties to the said suit.

3. It is stated for the applicant that notice under Section 80 CPC was issued to the District Collector on 21.11.1992 and the said notice was returned on 1.12.1992 on the ground that the address is incomplete. And then Section 80 notice was again sent on 9.2.1993 and the Government received the notice on 1.3.1993 and the plaint was presented on 8.7.1993. The suit was registered on 25th or 26th July, 1993.

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4. R-2 sent letter dated 20.8.1993 to the applicant. On 12.8.93 R-2 issued memorandum to the applicant informing him that though considerable time has elapsed, he has not produced any declaratory decree from a competent Court substantiating his claim that he belongs to SC Community. Hence, he was directed to show-cause within 15 days from the date of receipt of memorandum as to why his services should not be terminated for his failure to produce claim that he belongs to SC Community. On 6.9.1993, the impugned charge memo was issued and on the same day the applicant submitted letter dated 6.9.93 informing R-2 that the suit filed by him was registered as OS.133/93. The applicant stated that he received the OM on 15.9.1993. This OA was filed praying for setting aside the impugned memo dated 6.9.93 issued by R-2, by holding it as illegal, arbitrary and void and to consequently direct the respondents not to initiate any disciplinary action against the applicant pending disposal of OS.133/93 on the file of the Principal District Munsiff, Bapatla.

5. The main contentions for the applicant are :-

- a) When R-2 suggested the applicant to obtain declaratory decree, it is not open to him to initiate disciplinary proceedings till the suit already filed by the applicant is disposed of;
- b) When R-2 is defendant in the said suit, he cannot decide with regard to the merits of the case;
- c) There should not be any parallel proceedings in regard to the same matter.

6. It is evident that as early as in April, 1992, the applicant was informed that if he is going to obtain declaratory decree in regard to his social status, the question of taking disciplinary action against him would not arise. But the

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facts stated for the applicant indicate the liesurely way he proceeded in the matter. Hence, by letter dated 12.5.1993 the applicant was informed to submit his explanation as to why disciplinary action should not be taken against him. It cannot be stated that in view of the suggestion already given by the Department, the latter should tie its hands and the employee can take his own time for moving proper Court. Hence, it cannot be held as a tenable ground for setting aside charge memo issued or for restraining the deciplinary proceedings.

7. Even in criminal cases it is stated that ^{is is} ~~is is~~ open to the Departmental authority to proceed with the Departmental inquiry, though the trial in regard to the same subject matter is pending with the Criminal Court. Thus, there is no bar for the Departmental authority to proceed even when the criminal case is pending. But is is only stated that if the employee requests for stay of Departmental inquiry on the ground that he will be prejudiced with regard to his defence in criminal case, then it is a matter of consideration. But now this is a case where the suit is filed by the applicant employee. But it is urged that when the Departmental authority will be defendant in the suit it is not open to the Department to decide about the matter. But it is not shown as to how the prejudice will be caused if both the suit and departmental inquiry are continued simultaneously. The Department will decide on the basis of the material that is going to be placed before it. Of course, the Civil Court will also decide on the basis of the same. But the Civil Court is not

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12/5/93

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bound by the decision that may be given by the Departmental authority. It has to be noted that the proceeding in the Civil Court generally takes number of years while the matter is likely to be disposed of within less period in the Departmental inquiry. If ultimately the employee succeeds in the suit filed by him and if in pursuance of Departmental inquiry, the applicant is removed, then the applicant has to be reinstated with all backwages and hence no prejudice will be caused to him.

8. If the contention of the applicant is going to be accepted then the possibility of abusing the process of Court by adopting dilatory tactics in regard to the disposal of the suit cannot be ruled out. If the applicant is going to take steps to get the trial of the suit expedited, and if he is not going to take unwarranted adjournments, trial of the suit will be naturally over, before a final decision is going to be given in case the disciplinary authority holds against the applicant, for there is a right of appeal, right of revision and also he can move this Tribunal under Section 19. Further, the applicant cannot have any apprehension that either the Inquiry Officer or the Disciplinary authority will have prejudicial mind and they are going to decide against the applicant, irrespective of the merits of case. Further this is not a case where R-2 is having necessary record, and it is only the Revenue Authority that will produce necessary record to substantiate the order of cancellation of the SC certificate issued.

9. Thus, as it is a case where the Inquiry Officer and the Disciplinary authority will consider independently and impartially on the basis of the material that is going to be placed by the applicant before the concerned authority and in view of the various circumstances referred to it ~~cannot~~

be stated that any prejudice will be caused to the applicant if the Departmental Inquiry is allowed to continue even when the Civil proceedings is pending. We are sure that in view of this order, the applicant will take every step to proceed with the suit as early as possible instead of taking steps leisurely as it was done prior to the issue of Section 80 notice or filing of this OA.

10. It is stated for the applicant that the explanation in pursuance of memo dated 6.9.93 has to be submitted by him by tomorrow and in view of filing of this OA he has not yet filed that explanation and he may be given some time for filing such explanation. In the circumstances, the time for submission of explanation before the concerned authority is extended till 11-10-1993.

11. In the result, the OA is dismissed at the admission stage. No costs.

P. J. L^g

(P.T. THIRUVENGADAM)
Member (Admn.)

(V. NEELADRI) (O)
Vice-Chair

Dated : September 24, 1993
Dictated in the Open Court.

8/13/10/93
Deputy Registrar (U)

sk/ad
To

1. The Secretary, Union of India, Dept. of Space Control ISRO, Secretariat, New Delhi.
2. The Head, P2 G.A. Division, and Disciplinary Authority for Group 'C' employees, SHAR Centre, Sifari Kota, Nellore (Dist.)
3. One copy to Mr. P. Phalguna Rao, Advocate, Plot No. 79 Lalitanagar, Hyderabad.
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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13/10/93

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COMPARED BY

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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. A. B. GORTHY : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 24-9 -1993

ORDER/JUDGMENT:

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

in

O.A.No. 1194/93

T.A.No. (W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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