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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

OA 1471/93.

Dt. of Order: 18-1-94.

P. Venkateswara Rao

Vs.

1. Government of India, represented by
The Under Secretary, Ministry of
Finance, Department of Revenue, New Delhi.
2. Collector, Central Excise, Andhra Pradesh,
Hyderabad.

...Respondents

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Counsel for the Applicant : Shri V. Venkataramaiah

Counsel for the Respondents : Shri N.R. Devraj, Sr. CGSC

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CORAM:

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

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

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...2.

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DA.1471/93

ORDER

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

Heard Sri V. Venkataramaiah, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents, in regard to interim relief prayed for.

2. ~~Admit.~~

3. The applicant herein joined service in Central Excise Department on 12-7-1956 and he was recruited in the vacancy reserved for ST Candidate on the basis of his declaration that his caste is Konda Kapu. He retired from service on 31-8-1984.

4. The son of the applicant got seat in M.B.B.S. in the quota reserved for ST. The Gandhi Medical College, in which the applicant's son got the seat, on inquiry found that he does not belong to ST Community. The ~~order~~ dated 10-12-1984 praying for issual of certiorari to the respondents therein and quash the order dated 10-12-1984 whereby his admission was cancelled by declaring that he belongs to Konda Kapu tribe. That ~~order~~ was dismissed by ~~order~~ ^{Writ Petition} dated 3-12-1987. Then the charge-memo dated 16-8-1988 was issued to the applicant and it reads as under :

"Sri Pothula Venkateswara Rao, on 12-7-1956 joined the Central Excise Department, Hyderabad, Collectorate as Inspector of Central Excise against a vacancy reserved for scheduled tribe candidates by fraudulently declaring his caste as Konda Kapu and continued in Government service till 31-8-84 on that basis, even though he actually belonged to Kapu Community, a forward caste not entitled to such preferential treatment. By so doing, Shri P. Venkateswara Rao

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derived unintended benefits of service and pay and
ances during the period between 12-7-1956 and 31-8-1

Shri Pothula Venkateswara Rao by his above acts
exhibited lack of integrity and acted in a manner unbecom-
ing of a Government servant thereby contravening rules 3(1)
(i) and 3(1)(iii) of the Central Civil Services (Conduct)
Rules, 1964."

The same is challenged in this DA.

5. One of the contentions raised for the applicant is
that the said charge memo is barred by limitation as the
period of limitation for initiating charges against retired
Central Government employees is four years, from the date
of the event which is the subject matter of the charge as
laid down in proviso B(ii) of Rule 9(2) of CCS
Rules 1964. The portion of proviso B Rule 9(2)
of CCS Pension Rules is as under :

Rule 9(2)(b) :

The Departmental proceedings, if not instituted while the
Government servant was in service, whether before his
retirement or during his re-employment,

- (i) shall the President,
- (ii) shall not be in respect of any event which took place
more than four years before such institution, and
- iii) shall, his service.

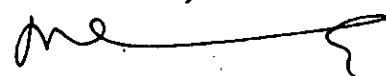
6. The question is as to whether the declaration by the
applicant at the time of entry into the service in 1956
in regard to his social status is the even^t that is envisaged
under proviso b(ii) or whether it is a continuing mis-
conduct as urged for the respondents as a matter for
consideration in the DA. We feel that as it is a case
where the inquiry is not yet over even after five years

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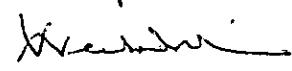
after the charge sheet is issued and in view of the
of limitation that has to be considered in the OA, the
balance of convenience ~~is~~ in staying the proceedings
initiated in pursuance of the impugned charge memo dated
16-8-1988 pending disposal of this OA.

7. Accordingly, the Departmental inquiry in pursuance of
the above charge memo dated 16-8-1988 is stayed pending
disposal of this OA.

8. Post this OA for final hearing on 2-2-1994 below
admissions, ^{for} reply in the meanwhile.



(R. Rangarajan)
Member(Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : 18th January, 1994
Dictated in the Open Court


Deputy Registrar (J)

to

1. The Under Secretary, ~~Ministry~~
Ministry of Finance, Dept. of Revenue,
Govt. of India, New Delhi.
2. The Collector, Central Excise,
sk Andhra Pradesh, Hyderabad.
3. ~~Mr. N. R. Devraj, Advocate, CAT. Hyd.~~
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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COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(A)

Dated: 16-1-1993

ORDER/JUDGMENT:

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

O.A.No.

in

1471/93

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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