

(137)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH;
AT HYDERABAD

ORIGINAL APPLICATION NO.268 of 1993

DATE OF JUDGMENT: 27th July, 1993

BETWEEN:

Mr. N.V.Rama Rao

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Applicant

AND

1. The National Savings Commissioner,
12, Seminary Hills,
Nagpur-440006.

2. The Collector and District Magistrate,
Krishna District,
Machilipatnam.

3. The Director of Tribal Welfare,
Government of Andhra Pradesh,
Telugu Samkshema Bhavan,
Masab Tank, Hyderabad-28.

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Respondents

APPEARANCE:

COUNSEL FOR THE APPLICANT: Mr. GVRs Vara Prasad, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. V.Bhimanna, Addl. CGSC for
Respondent No.1

Mr. D.Panduranga Reddy, Special
Counsel for State of AP for RR2
and RR3.

CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Hon'ble Shri P.T.Thiruvengadam, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

The applicant joined service in the organisation
of the 1st respondent as Lower Division Clerk in the Sched-
uled Tribe quota, when he made a representation to the

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effect that he belongs to Benthoriya community. It is not in controversy that Benthoriya is notified as Scheduled Tribe in Andhra Pradesh state. Even at the time of the promotion of the applicant to the post of Upper Division Clerk in 1979, the applicant had given declaration that he belongs to Benthoriya community. Then the matter was referred to the Revenue Authorities and it was certified by them that the applicant belongs to Benthoriya caste. When complaints were received to the effect that the applicant belongs to Sistikaranam but not Benthoriya caste, an inquiry was conducted on 12.12.1987 and then the Sub-Collector, Vijayawada certified that the applicant belongs to Benthoriya caste. But when again complaints were received in regard to the social status of the applicant, the Director, Social Welfare and then the applicant filled the proforma in 1988 as required by the Department of Social Welfare. A Show Cause notice was issued by the Director, Social Welfare, Krishna District on 6.8.1991. On 18.8.1991, the applicant gave a reply to the same. On 27.8.1991, the applicant was directed to submit certificates dated 4.1.1960 issued by the Director, Social Welfare, Krishna District and the report dated 12.12.1987 of the Sub Collector, Vijayawada.

2. A Charge Memo dated 23.3.1993 was issued to the applicant and was served on the applicant on 26.3.1993. The Article I of the Charge Memo reads as under:-

"That the said Shri N.V.Rama Rao, got himself appointed as Lower Division Clerk in the O/O Regional Director,

133

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year 1956 and joined the said post on 14.2.1956. That he got his appointment against the quota reserved for Schedule Tribe community on the basis of false declaration that he belongs to "Bentho Oriya" community which was notified as Scheduled Tribe. A certificate of caste was produced by him issued by the Tahsildar of Nandigama in Andhra Pradesh from time to time on the basis of the same community certificate. That on a complaint on which enquiry was conducted by the Tribal Welfare Dept. Andhra Pradesh as also the District Magistrate of Krishna District, it transpired that the Caste/Community certificate produced by Shri N.V.Rama Rao was found to be false and he did not belong to Scheduled Tribe at all. Neither he will-fully suppressing the true facts and producing false community certificate and obtaining unintended benefits during the service period by way of getting promotions etc. Shri N.V.Rama Rao has violated clause (i) of Sub-rule (1) of Rule 3 of C.C.S.(Conduct) Rules, 1964."

The applicant retired from service on 31.3.1993 on attaining ~~xxxxxx~~ the age of superannuation.

3. The contentions for the applicant ^{are} ~~were~~ as under:-
- i) Repeated inquiries in regard to the social status of an employee have to be held as illegal as held by the Andhra Pradesh High Court by a Judgment dated 27.12.1978 in W.P.No.888/78;

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134

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ii) Till the caste certificate is cancelled, it is not open to the disciplinary authority to initiate inquiry on the ground that the caste certificate is false.

4. An unreported Judgment of the Madras High Court in Sakthi Devi's case referred to in Para-6 of 1989(6) SLR 453 (R.Vasu Vs. Union of India and another) is relied in support of the second contention above. Under Rule 9 of the CCS (Pension) Rules, 1972, disciplinary proceedings initiated under Rule 3(1)(ii) and 3(1)(iii) of the CCS (Conduct) Rules can be continued even after the delinquent employee is allowed to retire voluntarily. While dealing with the scope of Rule 9 of the CCS (Pension) Rules, it was observed in Para-9 of the Judgment reported in AIR 1990 SC 1923 (D.V. Kapoor Vs. Union of India and others) that, "the exercise of the power by the President is hedged with a condition precedent that a finding should be recorded either in Departmental inquiry or judicial proceedings that the Pensioner committed grave misconduct or negligence in the discharge of his duty while in office. ^(emphasis supplied) ^(emphasis is supplied) But ^{subject of the charge} submission of caste certificate, even it assumed to be false, cannot be held as either grave misconduct or negligence of duty while in office, urged the learned counsel for the applicant.

Madras High Court held that, "in no disciplinary proceedings, ^(caste/community certificates) their genuineness or correctness of their contents can be gone into. It is open to the department or employer or organisation to ask the issuing authority or District Collector, as the case may be, to verify whether the certificate as issued could be still valid, on materials

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which have since come to their knowledge. They can appear in the verification enquiry and place the materials. If the certificate is cancelled, then disciplinary proceedings can be initiated for having furnished false information." In view of the above Judgment of the Madras High Court with which we respectfully agree, the impugned charge memo has to be held as illegal for it is the case of initiation of disciplinary proceedings ^{the} on allegation of submission of false caste certificate, even before it is cancelled by the District Collector who issued it.

6. The applicant already retired from service. Whether after his retirement, the disciplinary action can be initiated against the applicant on the ground of submission of the alleged false certificate, is a matter for consideration in accordance with the ^{CCS} Pension Rules, 1972. But as already observed, the applicant had drawn the attention of this Tribunal to Para-9 of the Judgment in AIR 1990 SC 1923 which was extracted in this order, while referring to the contentions for the applicant. Any how, as it is not the matter for consideration in this OA, we are not going to express any view in regard to the same. But the concerned authority will naturally look into the decision of the Supreme Court reported in 1990 AIR SC 1923 ~~which was extracted in this order~~ especially Para-6 of the same before deciding as to whether ~~the~~ disciplinary action can be initiated against the applicant ^{when he already retired} on the ground of the alleged furnishing of false caste certificate.

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7. In the result, the impugned charge memo dated 23.3.1993 is quashed. OA is ordered accordingly. No costs. Registry to communicate this order to Respondent No.1 by 9.8.1993.

(Dictated in the open Court).

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

V. Neeladri Rao
(V.NEELADRI RAO)
Vice Chairman

Dated: 27th July, 1993.

[Signature]
Deputy Registrar (J)

To

1. The National Savings Commissioner,
12, Seminary Hills, Nagpur-6.
2. The Collector and District Magistrate
3. The Director of Tribal Welfare, Govt. of A.P.,
Telugu Samkshema Bhavan,
Masab Tank, Hyderabad-28.
4. One copy to Mr.G.v.R.S.vara Prasad, Advocate,
113/RT Vijayanagar colony, Hyd.
5. One copy to Mr.v.Bhimanna, Addl.CGSC.CAT.Hyd.
6. One copy to Mr.D.Panduranga Reddy, Spl.Counsel for A.P.Govt.
7. One copy to Library
8. One spare copy.

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COMPARED BY

CHECKED 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. A. B. GORTHY : MEMBER (A)

AND

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

AND

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

Dated: 27-7 -1993

~~ORDER/JUDGMENT:~~

M.A/R.A/C.A.N.

in

O.A.No.

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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