

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1095/94

Date of Order: 21.7.97

BETWEEN :

1. B.Ramam
- 2- S.Sitaram
3. S.Indira Devi
4. G.Subrahmanyam
5. A.Rama Rao
7. M.Dnainaiva Rao
8. S.Appa Rao
9. G.Ramu
10. B.Barikasorru
11. K.Chinna Rao

.. Applicant

AND

1. The Chief of Naval Staff,
Naval Headquarters, New Delhi-1.
2. The Flag Officer -
Eastern Naval Command, Visakhapatnam-1.
3. The Material Superintendent,
Materials Organisation, Visakhapatnam-8.
4. Sri P.S.N.Murthy, Advocate,
Door No.1-142, Susarla Colony,
Baji Junction, Visakhapatnam.

.. Respondents.

- - -

Counsel for the Applicants

.. Mr.M.P.Chandra Moul

Counsel for the Respondents

.. Mr.V.Bhimanna

- - -

CORAM:

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

- - -

J U D G E M E N T

X Oral order as per Hon'ble Shri B.S.Jai ParameshwarM(J) X

- - -

Mr.M.P.Chandra Moul, learned counsel for the
applicant and Mr.V.Bhimanna, learned standing counsel for
the respondents.

JR

2. There are 11 applicants in this OA. Their particulars of service are detailed in Annexure-1 to the OA. It is submitted they all belonged to Scheduled Tribe candidates. While working in the 3rd respondent organisation on 14.8.93 the applicants were served with memo of charges alleging that they have converted into Christianity and they fail^{ed} to communicate to R-3 about their conversion and that they committed misconduct. Not only the applicants converted into Christianity but they gave^{an} undertaking to treat them as unreserved candidates as applicable as has been accepted without prejudice to verification of their earlier social status. After conversion the authorities directed them to produce the caste certificate. They fail^{ed} to do so. Hence they were served with the charge memos.

3. The applicants have filed this OA to call for the records relating to the charge-sheet dt. 14.8.93 and the consequential order dt. 25.1.94 issued by R-3 as arbitrary, to declare the illegal and offending the principles of natural justice and pass consequential orders.

4. The respondents have filed their counter stating that during April 1989 a complaint was received from A.P.S.T. Association stating that the applicants 1 to 9 secured employment in the Navy by producing false ST certificates and were enjoying the benefits though they do not belong to ST. Thereupon the respondents verified the caste certificates that the applicants had not furnished the caste certificates along with their service records that they were directed to produce the caste certificates that in spite of producing their caste certificates the applicants produced only the conversion certificate stating that they ^{had} ~~are~~ converted into Christianity.

R

63
.. 3 ..

In accordance with the existing instructions the ST candidates even after ~~their~~^{his} conversion to Christianity or any other religion will not cease to have the benefits as reserved candidates and that they can continue to get the benefits as reserved candidates. Hence they were again directed to submit the caste certificates and other certificates that inspite of repeated instructions the applicants fail to comply. On 5.4.91 they were directed by Chief Staff Officer to furnish the said certificate on or before 20.4.91 and that they ultimately submitted that their caste certificates have been taken by CBCID authorities during 1987 without any ~~receipt~~^{acknowledgment} and it was not possible for them to obtain fresh caste certificates. Thereupon, the matter was referred to higher authorities seeking clarification whether the applicants ~~can~~^{could} be treated as un-reserved candidates based on their request. Simultaneously the matter was also referred to CBCID authorities to confirm whether the ST certificates ~~of the~~ verification has been done. ^{The} CBCID authorities said that there is no such case ~~is~~^{was} pending that Naval Headquarters also clarified that the above direction and the social status of the individuals that they were liable ~~from~~^{for} action on grounds of securing employment in government service that the applicants submitted undertakings accordingly they ceased to get reservation benefits that as indicated in para-5 of the reply that CBCID, Visakhapatnam confirmed that no certificates were pending with them against the certificates of the applicants, ^{that} during 1992 Administrative instructions were issued by R-2 to all the Units to call for the copies of the caste certificates of the relations of the employees ~~were~~^{had} not submitted to the administration even after issuance of various instructions. The applicants adopted dilator tactics in submission of the caste certificates and hence they

Re
..4

were compelled^{-led} to issue memo of charge sheet. Shri B.S.N.Murthy was appointed as enquiry officer to conduct the enquiry against the applicant^{and that the enquiry} is in progress.

5. On 25.10.96 this Tribunal passed an interim order to the effect that the respondents are permitted to proceed with the enquiry will not be implemented without leave of the Tribunal unless the OA is^{in the} meanwhile disposed of. Copy of the final decision arrived at after enquiry shall be communicated to the original applicants. If aggrieved, these applicants will be at liberty to pursue their departmental remedies without prejudice to the contentions

6. There are two main contention in this OA. They are
(1) the names of the applicants were forwarded by the employment exchange as ST candidates. The employment exchange must have enclosed the relevant documents to treat them as ST candidates. It is not understood why those credentials showing them as ST candidates were not checked at the time of their engagement in service. The enquiry was started only when there was a complaint after a lapse of 10 to 11 years. Hence the enquiry committee and the disciplinary authority should examine this point whether there was need for examining their social status after^{lapse of} 10 to 11 years. Further, the applicants were converted themselves into Christianity but that does not stand in their way of showing their social status as ST. It is not understood why the applicants declared them as unreserved candidates. This point also needs verification at the time of enquiry and also under consideration by the disciplinary authority.


R

7. In view of the above we feel that it will be too premature to come to any conclusion in regard to disposal of the OA. Now a fullfledged enquiry is ordered and that enquiry has not been completed and the enquiry officer is ^{seized} ~~cease~~ of the matter. We feel that it is not necessary at this juncture to give any verdict in regard to the prayer in this OA. The enquiry officer as well as ~~the~~ ^{we} will keep in mind our above observations and dispose of the enquiry in accordance with the law. No doubt the applicants, if aggrieved by the disposal of the case, if adverse to them, are at liberty to take such judicial action as they deem fit under the circumstances.

8. In the result the OA is disposed of as under:-

The enquiry should be continued and completed early. The enquiry officer as well as ^{the} disciplinary authority should keep in mind our observations made as above and indicate in their report in regard to the points raised by us and other points mentioned in ~~the~~ report.

9. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

21.7.97


(R. RANGARAJAN)
Member (Adm.)

Dated: 21st July, 1997

(Dictated in Open Court)

sd


D.R. (J)

28/18/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED: 21/7/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

D.A. NO. 1095/94

Admitted and Interim directions
Issued:

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

