

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO. 1587 of 1994.

Date of Order :-

October, 1997.

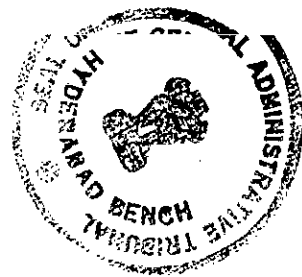
Between :

Y. Thippanna, aged about 55 years,
Son of Yerukala Ramappa
(Under orders of compulsory retirement)
R/o Guntakal, Anantapur District.

.... Applicant

And

1. The Additional General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager,
South Central Railway,
Guntakal.



.... Respondents

Counsel for the applicant - Mr. P. Krishna Reddy

Counsel for the respondents - Mr. C.V. Malla Reddy, SC.

Coram :

The Honourable Mr. R. Rangarajan, Member (Admn.)

The Honourable Mr. B.S. Jai Parameshwar, Member (Judl.)

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Officer submitted his report holding that the charges levelled against the applicant were proved. The copy of the report of the Enquiry Officer is at pages 72-79 to the O.A. The disciplinary authority proceedings of even number dated 12/21.2.1989 imposed the penalty of removal of the applicant from service. Against the said punishment, the applicant preferred an appeal. The appellate authority modified the punishment of removal from service to that of compulsory retirement from service. Ultimately, the applicant challenged the said punishment in O.A.No.72 of 1990 before this Tribunal. On 11.2.1997 this Tribunal accepted the O.A. and set aside the punishment imposed on the applicant solely on the ground that a copy of the report of the Enquiry Officer was not furnished to the applicant before inflicting the punishment.

(f) Thereafter the disciplinary authority in accordance with the directions contained in the O.A., furnished a copy of the report of the Enquiry Officer through their letter dated 8.4.1972 (page-70 to the explanation against the findings recorded by the Enquiry Officer.

(g) The respondent No.3 is the disciplinary authority. After considering the findings recorded by the Enquiry Officer and also the explanation of the applicant, the respondent No.3 by his proceedings of even number dated 8.10.1992 imposed the punishment of compulsory retirement from service on the applicant. A copy of the order dated 8.10.1992 is at pages-49-50 of the O.A.

(h) On 11.10.1992, the applicant preferred an appeal against the order of punishment before the respondent No.2.

absorbed as a Peon in the Railway Administration. It is stated that on 28.5.1976 he produced a Caste Certificate obtained from the Tahasiltar, Gooty to the effect that he belonged to 'Yerukala' caste - S.T. community. On 20.12.1976 he was promoted as Record-sorter. On 14.8.1978 he was promoted as Junior Clerk. On 1.6.1979 he was promoted as Senior Clerk. On 19.1.1980 he was promoted as Head Clerk and on 1.1.1984 he was promoted as Chief Clerk in the Railway Administration.

(c) One Mottu Vallu and one K. Thimmanna employees in the Railway Administration submitted complaints against the applicant stating that he earned successive promotions by producing a false caste certificate and that he did not actually belong to 'Yerukala' caste under S.T. category.

(d) The complaints were referred to the Director of Tribal Welfare. The District Collector, Anantapur conducted an enquiry into the genuineness or otherwise of the caste certificate ^{dt. 28.5.1976} produced by the applicant during 1976. The District Collector, Anantapur vide his proceedings No. RC(C.5)4588/85 dated 11.12.87 confirmed the opinion that the applicant was not belonging to 'Yerukala' caste and was belonging to 'Yekila' caste which comes under the Backward Community.

(e) On the basis of the report of the Collector, Anantapur, a major penalty charge memo was served on the applicant. The report of the Collector, Anantapur was the basis for initiating the disciplinary proceedings against the applicant. The copy of the charge memo is at page 86 to the O.A. On 29.12.1987 the applicant denied the charges. The copy of the explanation submitted by him is at page 84. An enquiry was ordered into the charges. The Enquiry

enquiry without any notice to him; that the respondents failed to note that he was recruited as a Rakshak in the R.P.F. against the relaxed standard in height on account of his belonging to 'Yerukala' caste under S.T. category; that on the face of the educational records, there was no reason for the Collector, Anantapur to cancel the caste certificate; that the respondents were wrong in coming to the conclusion that the caste certificate produced by him was a false one and that the orders of the respondents ~~therefore~~ are ~~not~~ sustainable in law.

5. The respondents have filed a counter stating that the applicant was appointed as Rakshak in the Railway Protection Force during 1962 against O.C. category and not against the S.T. category as contended by the applicant; that the applicant was medically decategorised on 18.6.1968 and was found fit for C.I class; that the applicant was absorbed as Peon on 28.1.1969; that the applicant while working at Guntakal Division produced a certificate issued by the Tahasildar, Gooty, Anantapur district, dated 28.5.1976 to the effect that he belonged to 'Yerukala' community which comes under S.T. category; that accordingly necessary entries were made in the Service register of the applicant; that on that basis, he was promoted to the higher cadres; that on 16.2.1980 and 9.2.1981 complaints were received against the applicant to the effect that the applicant had produced a false caste certificate; that the said ~~complaints~~ ^{it was} were enquired into and ~~found~~ that the applicant actually belonged to 'Yekila' caste recognised as Backward community by the State Government; that he did not belong to 'Yerukala' community; that the District Collector, Anantapur conducted a detailed enquiry; that in the said enquiry before the District Collector, Anantapur, the applicant participated and failed to substantiate his caste

A copy of the Memorandum of appeal is at pages 40 to 48 of the O.A. The appeal was submitted before the Chief Personnel Officer (respondent No.2). The respondent No.2 by his proceedings No. P/89/GTL/YT/1048 dated 18.5.1993 rejected the appeal and confirmed the punishment. The copy of the order of the respondent No.2 is at pages 34-35 of the O.A.

(1) The applicant submitted a revision petition to the respondent No.1. The revision petition was dated 29.5.1993. A copy of the revision petition is at pages 27-30 of the O.A. The respondent No.1 vide his proceedings of even number dated 2.11.1993 dismissed the revision petition and confirmed the punishment. The copy of the order passed by the respondent No.1 on the revision petition is at pages 23-26 of the O.A.

The applicant submits that after conclusion of the disciplinary proceedings, he challenged the proceedings of the Collector, Anantapur before the Hon'ble High Court of Andhra Pradesh in W.P.No.7234/94.

The applicant has filed this O.A. challenging the orders dated 8.10.1992, 18.5.1993 and 2.11.1993 passed by the respondents 3 to 1.

4. The applicant has challenged the impugned orders on the grounds that no independent enquiry was conducted by the Railway Administration or by the Collector to verify the correctness or otherwise of the caste certificate produced by him; that the respondents ought to have noticed that the Collector, Anantapur had commenced the enquiry after giving notice to the applicant but he cancelled the certificate by his order dated 11.2.1987 under the directions of the Government; that the respondents ought to have noticed that the Director of Tribal Welfare, Hyderabad conducted the

6. The applicant in the initial stage contended that he was appointed as Rakshak in relaxation of the prescribed height solely on the ground that he belonged to S.T. community. The applicant has not produced anything to show that he was in the first instance appointed as a S.T. candidate. Even during the course of hearing we requested the learned counsel for the applicant to produce the initial letter of appointment to ascertain whether his contention is true or not. The applicant has not produced the original letter of appointment. Though this position was not specifically traversed by the respondents, they categorically stated in their counter that the applicant was appointed against O.C. category. Further we have to rely upon the version of the respondents who are in possession of the service records of the applicant. The applicant has not chosen to file any rejoinder to the counter denying this averment.

7. It is the case of the respondents that on 28.5.1976 while the applicant was working at Guntakal Division produced a caste certificate issued by the Tahasildar, Gooty, to the effect that he belonged to 'Yerukala' community. It is only on the said basis, the applicant was considered as a S.T. candidate and his subsequent promotions were granted. Then the complaints were received from the railway employees themselves to the effect that the applicant had produced a false caste certificate. Therefore, the complaints were referred to the District Collector, Anantapur. Before the District Collector, Anantapur the applicant participated in the enquiry and he was even represented by a counsel. When that is so, we cannot say that the District Collector, Anantapur had come to a wrong conclusion and cancelled the caste certificate dated 28.5.1976.

as 'Yerukala' caste; that the District Collector, cancelled the caste certificate dated 28.5.1976; that on the basis of the decision of the District Collector, a charge memo in the standard Form No.V was served on the applicant.; that the applicant submitted his explanation; that a detailed enquiry was conducted into the said charge; that the Enquiry Officer submitted his report; that thereafter the disciplinary authority imposed the penalty of removal from service on the applicant vide proceedings dated 12.10.1988; that however the said punishment was set aside by the Tribunal in O.A.No.72/90 that thereafter the disciplinary authority served a copy of the report of the Enquiry Officer to the applicant through letter dated 8.4.1992; that the applicant submitted his explanation against the findings of the Enquiry Officer; that the disciplinary authority after considering the findings and explanation of the applicant imposed the penalty of compulsory retirement on the applicant vide proceedings dated 8.10.1992; that the applicant preferred an appeal against the said punishment to the Chief Personnel Officer (respondent No.2) ; that the respondent No.2 considered the appeal and confirmed the punishment imposed by the disciplinary authority; that thereafter the applicant submitted a revision petition to the Additional General Manager, South Central Railway, the respondent No.1; that the same was rejected by the respondent No.1 vide his proceedings dated 2.11.1993; that the District Collector, Anantapur conducted the enquiry giving sufficient opportunity to the applicant; that even the applicant was represented by a counsel before the District Collector; that the Director, Tribal Welfare and District Collector on enquiry found that the caste certificate was a bogus one and he had every jurisdiction to cancel the same and that there are no merits in this O.A.

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9. As already observed, the respondents gave every opportunity to the applicant during the disciplinary proceedings. The only lacuna which was found at the time of consideration of O.A.No.72/90 had been complied with by the disciplinary authority by supplying him a copy of the enquiry report. Therefore, it does not lie in the mouth of the applicant to again agitate any of the defects in the disciplinary proceedings. The impugned orders came to be passed only as per the directions given by this Tribunal in O.A.No.72 of 1990.

10. The respondent-authorities have found that the applicant had produced a false caste certificate dated 28.5.1976 and on that basis he earned promotions. The said certificate has been found to be false both by the District Collector, Anantapur and the respondent-authorities. We cannot sit as an appellate forum over the decision of the respondent-authorities and come to a different conclusion.

11. It is submitted that the applicant has subsequently challenged the proceedings of the District Collector, Anantapur in W.P.No.7234 of 1994 before the Hon'ble High Court of Andhra Pradesh. He has not submitted anything as to the fate of the said writ petition. The said writ petition appears to have been filed only after the punishment of compulsory retirement imposed on him became final. We cannot say anything on the said writ petition.

12. From the materials placed on record, we do not find any illegality or irregularity in the impugned orders. We cannot even consider whether the punishment imposed by the disciplinary authority is harsh and severe. We must bear in mind that the applicant on the basis of the caste certificate dated 28.5.1976 gained successive promotion and become sufficiently financially sound compared to his co-employees.

8. It is only after the report of the District Collector, Anantapur, the charge sheet was issued to the applicant in the standard Form No.V. Even during the disciplinary proceedings, the applicant has not been able to substantiate the fact that he actually belonged to 'Yerukala' community. He had not placed any material to show that the report of the District Collector, Anantapur was perverse. When the District Collector, Anantapur, conducted an enquiry with the opportunity to the applicant and formed an opinion that the applicant actually belonged to Yekila community and not Yerukala community, we cannot sit in appeal over the proceedings of the District Collector, Anantapur. Further the respondents gave him an opportunity to prove that he actually belonged to Yerukala community. Except trusting the school records, he did not place anything before the authorities to come to the conclusion that the decision of the District Collector, Anantapur was not proper and that the certificate produced by the applicant on 28.5.1976 was a genuine one. If really the caste as found in his educational records was correct and on that basis he was appointed as Rakshak, then there was absolutely no need for the applicant to produce afresh the certificate dated 28.5.1976 obtained from Tahasildar, Gooty. It is only this certificate that has been cancelled by the District Collector, Anantapur. This clearly goes to show that at the time of entering into service the applicant did not claim any concession as a reserved community candidate. Therefore, the contention of the respondents that the applicant was appointed as against the O.C. category has some substance.

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13. Accordingly the O.A. is dismissed. No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]

न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH