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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH
AT HYDERABAD

O.A. NO. 255 OF 1995

P.Anthony Raju .. Applicant

and

The Regional Director,
Staff Selection Commission,
EVK Sampath Building, II Floor,
College Road, Madras - 600 006. .. Respondent

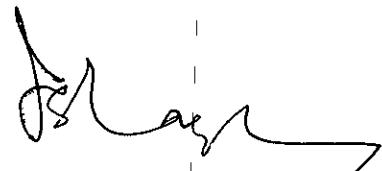
REPLY STATEMENT FILED ON BEHALF OF RESPONDENT

I, J S RAGHAVAN, Son of Late Shri R.J Iyengar, aged about 57 years, holding office as the Regional Director, Southern Regional Office of the Staff Selection Commission, Madras do hereby solemnly affirm and sincerely state as follows:

1. I am the Regional Director (Southern Region), Staff Selection Commission, Department of Personnel & Training, Government of India the Respondent herein and as such I am fully acquainted with the facts of the case.

2. I have read the copy of the above Original Application and submit that there are no valid or reasonable grounds in the Original Application. The various averments made in the Original Application are hereby denied, save those that have been specifically admitted herein under. The Applicant is put to strict proof of such averments that have not been traversed herein under.


D. DWARAKANATH
ASSISTANT DIRECTOR
Staff Selection Commission
MADRAS


J.S. RAGHAVAN.
Regional Director,
Staff Selection Commission,
Madras.

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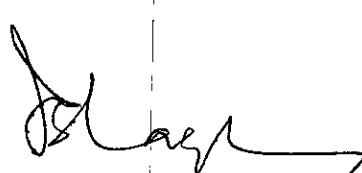
3. The averments in paragraphs 1 to 3 need not be replied as they are formal and procedural in nature.

4. The averments in paragraphs 4.1 and 4.2 are self explanatory and need no comments.

5. In respect of averments in paragraphs 4.3 to 4.8 it is submitted that the Applicant applied for the Divisional Accountants/Auditors/Jr Accountants/UDCs etc., Examination 1991 claiming to belong to Scheduled Caste category. As he claimed to belong to a Scheduled Caste, he was required to submit a community certificate in proof thereof. However, the Applicant failed to produce the requisite community certificate at the time of applying for the said examination. Even then, this Respondent allowed him on a provisional basis to take the examination. As the Applicant was provisionally selected under SC category for the post of Auditor/UDC, this Respondent in order to examine his claim to SC status directed the Applicant by its Memorandum No.6/7/93-SR dated 23/03/93 to submit the requisite community certificate in support of his claim to belong to a Scheduled Caste.

6. It is submitted that the Applicant submitted a community certificate dated 22/01/93 issued by Mandal Revenue Officer, Kurnool(AP) (Annexure R1) certifying that the Applicant belonged to 'Adi Andhra' caste. As the Applicant bears a Christian name, this Respondent had a bonafide doubt


D. DIVARAKANATH
ASSISTANT DIRECTOR
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MADRAS


J.S. RAGHAVAN,
Regional Director,
Staff Selection Commission,
Madras.

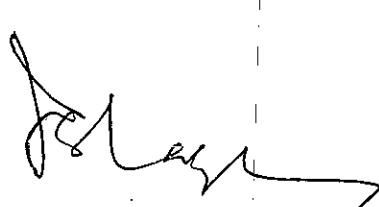
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as regards his religion. Hence, this Respondent called for an explanation from the Applicant for the discrepancy in his religion as revealed by his name and the one mentioned in the Community Certificate dated 22/01/93 produced by him. However, the explanation furnished by the Applicant in this regard was not satisfactory to this Respondent as it lacked seriousness causing some doubt about the genuine claim to Scheduled Caste Status.

7. In the circumstances, this Respondent had referred the case of the Applicant to the State Authorities concerned viz., Government of Andhra Pradesh, Social Welfare Department with a request to send a verification report on the correct community status of the Applicant. The request made to the State Authorities concerned by this Respondent can be seen at Annexure R2. Further, this Respondent has been reminding the State Authorities concerned periodically for the verification report sought. The requisite report is still awaited from the State Authorities concerned. This Respondent has been informed by the above mentioned State Authorities vide Govt. of Andhra Pradesh, Social Welfare Department's letter No.23026/JI/93-5 dated 24/08/94 (Annexure R3) that the matter regarding the community status of the Applicant is being investigated by the Director of Social Welfare and Collector, Kurnool (AP) and the verification report will be sent to this Respondent shortly. Meanwhile, this Respondent has advised the


D. DWARAKANATH
ASSISTANT DIRECTOR
Staff Selection Commission
MADRAS

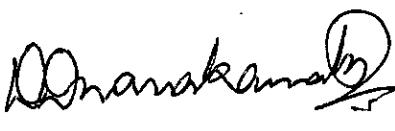

J.S. RAGHAVAN
Regional Director,
Staff Selection Commission,
Madras.

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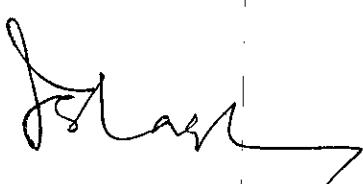
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Applicant to await further communication from this Respondent. It is respectfully submitted that this Respondent has not cancelled the candidature of the Applicant but only kept it pending for want of a verification report from the State Government concerned on the correct community status of the Applicant. In the circumstances, it is humbly submitted that the matter regarding acceptance or otherwise of the Applicant's claim to belong to Scheduled Caste category will be finalised as soon as the requisite verification report sought from the State Government concerned is received by this Respondent.

8. In response to the averments in other paragraphs to the effect that as a recruiting authority for various non-technical posts in the departments of the Central Government, this Respondent has the responsibility to ensure and satisfy itself as regards the genuineness of the community certificates produced by members of Scheduled Castes and Scheduled Tribes who are selected under relaxed standards in examinations conducted by this Respondent. It is submitted further that this Respondent is not the appointing authority for the posts to be filled on the basis of the said examination. This Respondent is only a recruiting agency for selecting and nominating suitable candidates to the appointing authorities concerned for appointment to each specific category of posts such as those reserved for SC, ST, EXS, Physically Handicapped. The Select Lists for the posts



D. DWARAKANATH
ASSISTANT DIRECTOR
Staff Selection Commission
MADRAS


J.S. RAGHAVAN
Regional Director,
Staff Selection Commission,
Madras.

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reserved for each of these categories are distinct and separate being based on the qualifying standards applicable to the particular category to which it pertains. Hence, before a candidate can be included in the Select List under a particular category, this Respondent has to make sure that the candidate does indeed belong to that category, as otherwise an un-entitled person might usurp a concession which is not admissible to him and thus deprive another genuine person of the benefit of the concession.

9. As already submitted above, this Respondent is not the appointing authority, but only an agency for selecting and nominating suitable candidates to the appointing authorities. Hence, it is not within the powers of this respondent to appoint or confirm the Applicant as demanded in the Application. Therefore, the Applicant's prayer is not applicable to this Respondent.

10. It is submitted that it is not proper on the part of the Applicant to aver that this Respondent has shown discrimination and has singled out the Applicant for this Respondent has neither rejected nor cancelled the candidature of the Applicant for the said examination, but has only withheld it pending correct proof of his claim to belong to Scheduled Caste category. In view of the facts mentioned ---- -- pleased to dismiss the Application on merits.


D. DWARAKANATH
ASSISTANT DIRECTOR
Staff Selection Commission
MADRAS


J.S. Raghavan

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11. The averments in paragraphs 6 to 12 need no comments. and the Original Application may be dismissed as it is devoid of merit.

12. For the reasons stated in the above paragraphs this Hon'ble Tribunal may be pleased to dismiss the Original Application as premature and pass such other order or orders as may deem fit and proper in the circumstances of the case.



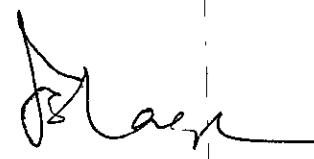
DEPONENT

Verification

I, J S Raghavan, S/o Late Shri R J Iyengar, aged about 57 years, working as Regional Director, Southern Regional Office of the Staff Selection Commission, Madras do hereby verify that the above paras are true to my personal knowledge and according to the legal advice of my counsel and that I have not suppressed any material facts.

Date: 3rd July, 1995

Place: Madras.


J.S. RAGHAVAN,
Regional Director,
Staff Selection Commission,
Madras.


D. DWARAKANATH
ASSISTANT DIRECTOR
Staff Selection Commission
MADRAS

Before CAT Bench at-
Hyderabad

OA. 255/95.



Reply filed by Respondent

Recd copy
8am 4th
10/7/95

Filed on:- 10/7/95.

Filed by:-

Kotla. Bhaskara Rao.

Addl. Chs.

Memo of Appearance

Filed

must be filed
on
10/7/95

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

M.A. 777/95

O.A. 255/95.

Dt. of Decision : 30-11-95.

P. Anthony Raju

.. Applicant.

Vs

The Regional Director,
Staff Selection Commission,
Dept. of Personnel & Training,
Southern Region, EVK Sampath Building,
II Floor, College Road,
Madras-600 006.

.. Respondent.

Counsel for the Applicant : Mr. J.V. Lakshmana Rao

Counsel for the Respondent : Mr. K. Bhaskar Rao,
Addl.CGSC.

CORAM:

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

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

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M.A.No.777/95
+ O.A.No.255/95

JUDGEMENT

I As per Hon'ble Sri Justice V.N. Rao, Vice Chairman . X

The applicant pleads that his forefathers are Adi Andhras and his father converted to Christianity and he reconverted to Hinduism. The applicant was selected to the post of Divl.Accountant/Auditors/UDC Exam. of 1991 in the SC quota, as per the results announced in 1993. But the respondent, the Regional Director, SSC, had not allotted the applicant to any unit as it was felt that the name of the applicant (P. Anthony Raju) indicates that he is a Christian. Being aggrieved, this O.A. was filed praying for a direction to the respondent to appoint him as per the results announced in January, 1993 of the recruitment examination of 1991 held for Divl. Accountants/Auditors/ UDCs with all consequential benefits including due seniority.

2. Para 4(ii) to the enclosure to MHA Circular Lr. No. 35y 1y72-RU (SCT.V), dt. 2-5-1975 which is relevant for consideration of this O.A. is as under, (vide Page 210 of Brochure on Reservation for SCs and STs in Services):

"Cases of conversion and reconversion:

(ii) in the case of a descendant of a Scheduled Caste convert, the mere fact of conversion to Hinduism or Sikkim will not be sufficient to entitle him to be regarded as a member of the Scheduled Caste or which his forefathers belonged. It will have to be established that such a convert has been accepted by the members of the caste claimed as one among themselves and has thus become a member of that Caste.)

3. It is evident from the above that one cannot claim the benefit of reservation on the basis of mere reconversion and he can have that benefit if such reconvertee has been accepted by the Members of the Caste to which the forefathers of that reconvertee belong to and thus become a member of that caste.

4. The applicant filed M.A.777/95 praying for a direction to the respondents to allot the applicant to one of the units in view of the affidavits of the 9 elders which are enclosed to the said application. It is not for this Tribunal to verify as to whether in fact the dependents of the 9 affidavits of the elders of the caste or not. ^{To the extent of furnish of affidavits, M.A.777/95 is allowed} But, in view of the said prima facie case, it is just and proper to give a direction to the respondents to allot the applicant to one of the units and then the appointing authority has to give an offer of appointment subject to a condition that the appointment is liable to be cancelled, if on verification it is found that it is not a case where the elders of the caste accepted the applicant as a member of the caste. It is open to the appointing authority to refer the matter to the Revenue authorities for that purpose.

5. It may be further stated that the seniority of the applicant, as per his merit position at the time of selection has to be maintained on his appointment.

5. In the result, the O.A. is ordered as under:

The respondents has to allot the applicant to one of the units, within one month from the date of receipt of a copy of

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this order. Thereupon, the appointing authority has to issue the conditional provisional order of appointment as referred to in Para 4 above, within one month from the date of receipt of communication from the respondents. The respondent has to enclose a copy of this order along with the communication to the unit to which the applicant is going to be allotted. The applicant has to be given the seniority as per the merit position, on his appointment.

6. M.A.777/95 is allowed to the extent referred to and para 4 of this order. The O.A. is ordered accordingly. No costs. //

from Secretary
(A.B. Gorthi)

Member (A)

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

Dt. 30-11-1995
Open Court Dictation.

Prakash Rao
Deputy Registrar (J)CC

kmv

To

1. The Regional Director, Staff Selection Commission, Dept. of Personnel and Training, Southern Region, EVK Sampath Building, II Floor College Road, Madras-6.
2. One copy to Mr. J. V. Lakshmana Rao, Advocate, CAT. Hyd.
3. One copy to Mr. K. Bhaskar Rao, Addl. CGSC. CAT. Hyd.
4. One copy to Library, CAT. Hyd.
5. One spare copy.

pvm

Urgent

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND
"Ab Northi"
THE HON'BLE MR.R.PANGARIAN :M(A)

DATED: 30-11-1995

ORDER/JUDGMENT

M.A./R.A./C.A. No. 777/95

in

O.A.No. 255/95

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

NO Spare Copy

p.v.m.

