

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No. 1465/96

Date of Decision: 24.9.97

BETWEEN:

A. Chinna Ankaiah .. Applicant

AND

- 1. The General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
- 2. The Dy. Chief Mechanical Engineer,
o/o Chief Workshop Manager,
South Central Railway,
Lalaguda,
Secunderabad.
- 3. The Production Engineer,
o/o Chief Workshop Manager,
South Central Railway,
Lalaguda,
Secunderabad. .. Respondents.

Counsel for the Applicant: Mr. P. Krishna Reddy,

Counsel for the Respondents: Mr. J.R. Gopal Rao

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMN.)

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

R

64

ORDER

(Per Hon'ble Sri B.S. Jai Parameshwar: Member (Judl.))

Heard Smt. P. Sarada for Sri P. Krishna Reddy, the learned counsel for the applicant and Sri J.R.Gopal Rao, the learned counsel for the respondents.

This is an application filed under Sec. 19 of the Administrative Tribunals Act. The application was filed on 9.12.1996.

The applicant was initially appointed as Khalasi in the Railway Work-shop, Lallaguda in the scale of Rs.750-940 (RSRP) on 18.12.86. His appointment to the said post was against vacancies reserved for ST community, under the ST crash programme. At that time the applicant had produced a xerox copy of caste certificate dated 27.1.83 claiming to belong to Yenadi caste, a cast under scheduled tribe. The applicant was promoted to the post of Khalasi/Helper Gr.III in the scale of Rs.800-1150 (RSRP) and to Scale Gr.II in scale of Rs.1200-1800 (RSRP) against the reserved vacancies of ST community.

The Respondents referred the caste certificate to the Director of Tribal Welfare, Government of Andhra Pradesh, Hyderabad for ascertaining the genuineness or otherwise of the same and also to ascertain whether the applicant actually belonged to ST community. In accordance with the instructions issued in Annexure-I to the Railway Board's letter bearing No.78 E(SCT) 15/29 dated 12th July, 1978. The Director of Tribal Welfare, Government of Andhra Pradesh, Hyderabad, conducted the preliminary inquiry as to the caste certificate produced by the applicant. The applicant participated in the preliminary inquiry. The Director of Tribal Welfare, Government of A.P., Hyderabad,

R

during the preliminary inquiry found that the applicant belonged to Baliya caste and not Yenadi caste and therefore not a ST candidate. The report of the Director of Tribal Welfare is at Annexure-II to the reply.

On the basis of the report of the Director of Tribal Welfare, Government of Andhra Pradesh, Hyderabad, disciplinary proceedings were initiated against the applicant. The applicant participated in the disciplinary proceedings. In the disciplinary proceedings the inquiry officer submitted his report dated 1.8.95 (Annexure-V to the OA. A copy of the report of the Enquiry Officer was furnished to the applicant on 9.8.85. The applicant submitted his representation against the findings of the Inquiry Officer.

The Respondent-3 after considering the report of the Enquiry Officer and also the explanation of the applicant vide his proceedings No.E-I/WP/42421/22/CS dated 4.12.95, imposed the penalty of removal from service on the applicant.

Against the said order of punishment the applicant preferred an appeal to the Respondent-2. The Respondent-2 by his proceedings of even Number dated 22.2.96 rejected the appeal and confirmed the punishment.

The applicant has filed his OA, challenging the orders dated 4.12.95 and 22.2.96 passed by the Respondents 3 & 2 respectively.

The principal contention of the applicant in the OA is that the Director of Tribal Welfare, Government of Andhra Pradesh, Hyderabad is not the competent authority to enquire into his caste and that the report of the said officer was without jurisdiction. It is his case that the revenue authorities of the State of Andhra Pradesh are the competent authorities to decide on the status of the person. He further alleged that the charge memo was not clear and no witness were examined on behalf of the Disciplinary

R

authority. He further challenged the enquiry proceedings conducted against him.

The Respondents have filed a counter stating that in accordance with instructions contained in the Board's letter dated 12.7.78 the caste certificate produced by the applicant was referred to the Director of Tribal Welfare, Government of Andhra Pradesh, Hyderabad, that after receipt of the report from the said officer a detailed inquiry was conducted into the charges levelled against the applicant, that even before the Director or before the Enquiry Officer the applicant could not produce the original certificate claiming to belong to Yenadi community or any of the Government notification to state that he belonged to ST community. It is further stated that fullest opportunity was given to the applicant to establish his caste and they further justified the orders passed by the Respondents 3 & 2 respectively.

The principal contention of the learned counsel for the applicant is that the Director, Tribal Welfare, Government of Andhra Pradesh, Hyderabad was not the competent authority to enquire into the caste. According to him it is only the revenue authorities who are competent to enquire about the status of a person. Thus contending, the learned counsel for the applicant urged that the preliminary inquiry conducted by the Director of Tribal Welfare was without jurisdiction. As against this the Respondents relied on the Board's letter dated 12.7.78. Annexure-I to the said letter is Annexure R-1 to the reply. They relied upon para-2(iii) of the said para. The said para reads as under:

"In case of any discrepancy in the particulars vide item (i) and (ii) above, the matter is referred to the Civil Authority concerned for a confidential inquiry at the Village/town level for verification of his Caste/Tribe status."

R

Thus they contend that Civil Authority as described in the Annexure to the Board's letter is the Director of Tribal Welfare, Government of Andhra Pradesh. The learned counsel submitted that the Director of Tribal Welfare was more conversant with the caste classified as ST and was more competent to ascertain whether the caste to which the applicant claimed to belong was in fact classified as ST^{or not}. Further he stated that every opportunity was given to the applicant to establish that he belonged to Yenadi caste - a caste under the Scheduled Tribe. The annexure-I to the Railway Board's letter does not clearly state as to who is the "Civil Authority". The Director of Tribal Welfare, Government of Andhra Pradesh, can be regarded as "Civil Authority" for the purpose of conducting enquiry as to caste claims made by the officials of the Railway Administration, as contended by the learned counsel for the Respondents. The matter was referred to the Director of Tribal Welfare to ascertain whether the applicant belonged to Yenadi community and that Xerox copy of the certificate produced by him was a reliable one. It was only the preliminary inquiry to ascertain whether the caste communicated by the applicant was acceptable or not.

After the Director of Tribal Welfare, conducted the preliminary inquiry, a detailed inquiry was held against the applicant under Rule 11 to the Railway Servants (Disciplinary & Appeal) Rules. In the case of N.D. Ram Tirthankar Vs. State of Maharashtra and others reported in AIR 1997 Supreme Court Page 2418, the Hon'ble Supreme Court of India has observed that the preliminary inquiry has nothing to do with the Enquiry conducted after the issue of charge-sheet. The former action would be to find out whether the disciplinary action should be initiated against the delinquent. After fulfilled inquiry was held, the preliminary inquiry lost its importance. In that view of the matter the preliminary enquiry conducted by the Director, Tribal Welfare lost its

R

importance. In that view of the matter, the preliminary inquiry conducted by the Director, Tribal Welfare, lost its importance after a fulfilled inquiry was initiated and held against the applicant. Therefore, the contention of the applicant that the preliminary inquiry conducted by the Director of Tribal Welfare has no jurisdiction and merits to be rejected. Accordingly it is rejected.

The applicant contended that the charge sheet was not legible. He has participated in the inquiry and therefore it is too late in the day to urge that the charge sheet was not legible. Nothing prevented him to ask the Enquiry Officer to furnish a legible copy.

The order of the Appellate Authority is at Annexure-I. Copy of the appeal dated 26.12.95, submitted by the applicant is at Annexure-II. The applicant has raised so many grounds against the punishment. The appellate authority has not at all taken into consideration any of the grounds urged by the applicant in the appeal. The appellate authority has not followed the guidelines issued under Rule 21 of the CCS(CCA) Rules. We are of the opinion that the Appellate authority has passed the order at Annexure-I without applying his mind. Hence we feel it proper to remit the matter to the Appellate authority for considering the appeal dated 26.12.95 afresh and on merits. In case the applicant desires a personal hearing, the appellate authority shall provide the opportunity to the applicant.

B

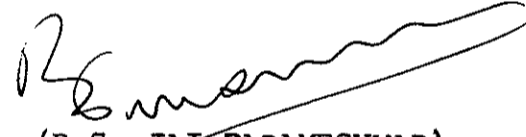
69

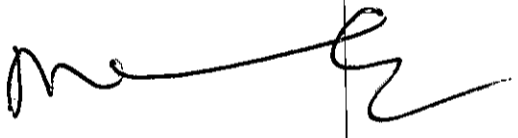
Hence we issue the following Directions:-

- a) The order dated 22.2.96 passed by the Respondent-2 is hereby set aside.
- b) The Respondent-2 shall consider the appeal dated 26.2.95 afresh, on merits, and dispose of the same by a reasoned order.
- c) In case the applicant desires a personal hearing, the Appellate Authority shall give him an opportunity.

With the above directions the OA is disposed of.


No order as to costs.


 (B.S. JAI PARAMESHWAR)
 MEMBER (JUDL.)


 (R. RANGARAJAN)
 MEMBER (ADMN.)

Date: 24 Sept 1997

KSM

! /

 D.R.(3)

..8..

Copy to:

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. The Dy. Chief Mechanical Engineer, O/O Chief Work Shop Manager, South Central Railway, Lalaguda, Secunderabad.
3. The Production Engineer, O/O Chief Workshop Manager, South Central Railway, Balaguda, Secunderabad,
4. One copy to Mr. P. Krishna Reddy, Advocate, CAT, Hyderabad.
5. One copy to Mr. J. R. Gopal, Rao, Addl. CGSC, CAT, Hyderabad.
6. One copy to Hon'ble Shri B.S.P., Member (J), CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

14/10/97

8

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: 24/9/97

ORDER/JUDGMENT

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

in

O.A.NO. 1465/96

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज/DESPATCH
6 OCT 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH