

44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 438/97

Date of Order : 5.1.99

BETWEEN :

Mrs. L.Usha Rani

.. Applicant.

AND

1. The Sr.Divl.Commercial Manager,
S.C.Railway, Vijayawada.

2. The Sr.Divl.Personnel Officer,
S.C.Railway, Vijayawada.

3. The General Manager,
S.C.Railway, Rail Nilayam,
Secunderabad.

4. The Commissioner of Tribal Welfare,
Govt. of A.P., Telagu Sankshama Bhavan,
Masab Tank, Hyderabad. .. Respondents.

— — —

Counsel for the Applicant

.. Mr.G.V.Subba Rao

Counsel for the Respondents

.. Mr.D.F.Paul

— — —

CORAM :

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

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

R

— — —



.. 2 ..

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

- - -

Mr.G.V.Subba Rao, learned counsel for the applicant and Mr.D.F.Paul, learned standing counsel for the respondents.

2. The applicant herein submits that she is hailing from Konda Kapu community and that community is ST community. Hence by birth and descent ^{an} she is ST candidate. She was appointed as Junior Clerk on 25.2.82. She was subsequently promoted to higher grades ^{of} Senior Clerk, Head Clerk and Superintendent Gr-II on the basis of the reservation. It is submitted that ST caste certificate was obtained from Tahsildar, ^{of} Mandavalli, Krishna District on 2.4.82. It is further stated that the said certificate was issued by Village Officer and the Revenue Officials. The Tahsildar is the competent authority to issue the caste certificate and the same was accepted by the Railway authorities in support of ^{the} caste as Konda Kapu.

But the applicant was reverted from that of Superintendent Gr-II to Head Clerk by the impugned order No.B/P.612/1/C/Vol.II dated 12.3.97 (A-2) as the railway authorities on the basis of ^a the complaint decided that she is not ^{an} ST community candidate.. after issuing her show cause notice No.B/P.612/I/C/Vol.II dated 24.10.95 (A-1) to which she replied suitably.

3. It is further stated that the increments already granted to her in the scale of pay of Rs.1600-2660 was also revised by the impugned order dated 31.3.97 (A-3).

JR

J

4. This OA is filed to set aside the impugned orders dated 24.10.95 (A-1), 12.3.97 (A-2) dated 31.3.97 (A-3) by holding them as arbitrary, illegal and violative of articles 311(2), 12 and 16 of the Constitution of India and for a consequential direction to the respondents to continue her in the post of Office Superintendent Gr-II in the scale of Rs.1600-2060 which she is presently holding till the decision of the Collector, Krishna District regarding her caste affiliation is conveyed.

5. By an interim order dated 8.5.97 this Tribunal has stayed the orders of 12.3.97 and also the refixation of pay by order dated 31.3.97 and hence the applicant is continuing as Office Superintendent Gr-II in the scale of Rs.1600-2660.

6. In the reply it is stated that the Commissioner of Welfare has declared her as a Non-ST candidate and because of that her case was examined and after issuing a show cause notice she was reverted and her pay was refixed as per the impugned order. Hence there is no irregularity in issuing the impugned orders.

7. The applicant states that the Commissioner of Welfare is not the competent authority to give the caste certificate or cancelling the caste certificate already issued. It is only the District Magistrate who is competent to issue or cancel the caste certificate. Her caste certificate was initially issued by

Br

N

Tahsildar, Mandavalli, Krishna District who is competent to issue the caste certificate on behalf of the District Magistrate. Hence reverting her on the basis of the letter of the Commissioner of Welfare stating on the ground that she is not belonging to ST community is not correct. For this she relies on the judgement of this Tribunal reported in ATR 1989 (1) CAT 582 (G.Nooka Rao Reddy Vs. S.C.Railway and others). It is observed by the Tribunal in that judgement that the verification of the caste/tribe has to be got verified through District Magistrate.

8. In view of the above observation we asked the learned counsel for the applicant whether the letter of the Commissioner of Welfare can be taken note of in regard to the caste affiliation of the applicant. The learned counsel for the respondents submitted that it is proper to go by the verdict of the District Magistrate and not by the declaration by the Commissioner of Welfare. It is further added by the learned counsel for the respondents that a letter had already been written to District Magistrate to inform the railways in regard to the caste affiliation of the applicant whether she belongs to ST community or not. The reply is awaited. The respondents further submitted ^{that} the reversion order etc which is already stayed will be implemented only after obtaining the necessary reply from the District Collector, Krishna District.

R

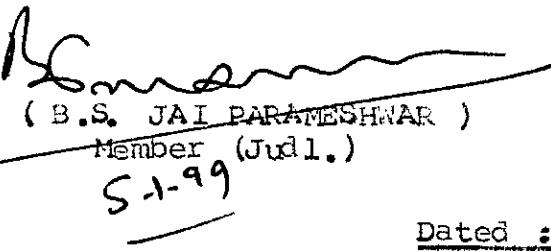
J

57

.. 5 ..

9. In view of the above submission of the respondents the impugned orders already passed by the railway authorities are hereby set aside. The respondents authorities are at liberty to issue fresh proceedings in regard to the reversion etc on the basis of the rules ^{of} the District Collector declares that the applicant does not belong to ST or any other reserved community which can be equated to ST status. As the refixation orders also had been stayed, the refixation if necessitated has to be done only after deciding her caste status as directed above.

10. The O.A. is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

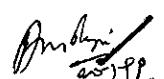
5-1-99


(R. RANGARAJAN)

Member (Admn.)

Dated : 5th January, 1999

(Dictated in Open Court)


Amulya
1999

sd

22/1/99
1ST AND 2ND COURT

COPY TO:-

1. H.D.H.N.J
2. H.H.R.P. M.(A)
3. H.B.S.J.P. M.(J)
4. D.R.(A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (J)

DATED: 5-1-99

ORDER/JUDGMENT

M.A./P.A./C.P.NO.

In

D.A. NO. 438/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

(8 copies)

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
प्रेषण / DESPATCH

27 JAN 1999

हैदराबाद आयोगीह
HYDERABAD BENCH