

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.342/97

Date of order: 6/12/1997

Bahadur Singh, S/o Sh.Sitaram, R/o Plot No.A-8, Anandpuri Adarshnagar, Jaipur, working as Motor Mechanic, GSI, E&T Division, Banipark, Jaipur.

...Applicant.

Vs.

1. The Union of India through Secretary to the Govt, Mini. of Mines, New Delhi.
2. Dy.Director General, Geological Survey of India, Western Zone, Jaipur.
3. Sh.Kailash Chabd Meena, Head Mechanic, Engineering & Transport Division, Geological Survey of India, Jaipur.

Mr.Rakesh Sharma - Counsel for applicant.

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes the following prayers

- i) to declare the applicant belonging to ST community as per notification Annx.A4 instead of SC community;
- ii) to direct the respondents to make necessary correction in the Service record of the applicant in pursuance of notification Annx.A4 and accordingly his candidature may be considered for further promotion as ST candidate and order of promotion dated 9.5.97 of Sh.K.C.Meena may be quashed and set aside as he is junior to the applicant as ST candidate.

2. Facts of the case as stated by the applicant are that the applicant has been working as Mechanic in Transport & Engineering Division of GSI, Western Region, Jaipur and the applicant was made permanent since 21.1.83 and at present the

applicant is working as Motor Mechanic in E&T Division, Jaipur. It is stated that the applicant is Dhanka by caste and earlier this caste was in the Schedule of Schedule Castes but later on Govt of India vide its notification dated 29.9.76 declared Dhanka caste as Scheduled Tribe. The applicant produced the certificate dated 4.7.95 issued by the Tehsildar, Jaipur for making necessary correct in the service record. But respondent No.2 has not corrected as such the applicant is deprived from the benefits and other junior persons who are belonging to ST are getting the benefit. It is also stated that the respondents issued a seniority list dated 27.2.97 showing the position of Mechanic as on 31.12.97 in which the applicant's name has been shown at Sl.No.14 and date of commencement of continuous Govt service has been shown as 21.1.83 and in the column of caste the applicant has been shown as SC. It is further stated that as per the notification dated 29.9.76, the applicant must have been shown as ST candidate. The applicant filed representation but with no avail. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that this O.A hopelessly barred by limitation, therefore, deserves to be dismissed as the alleged notification was issued on 29.9.76 but the applicant took no step to raise his grievance till the present O.A. It is also stated that at the time of initial appointment in Geological Survey of India as Mechanic, the applicant submitted a certificate regarding status of his caste as SC, accordingly, the applicant was appointed against the vacancy earmarked for SC. Later on in the year 1985, the applicant submitted the certificate regarding the change of his caste status as ST. It is stated that a communication has been received from SC/ST Commission regarding change of status



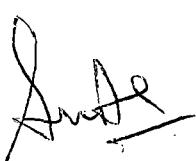
of caste after entry in the Govt service and according to the said communication, the applicant is not entitled to any relief sought for. It is stated that the action of the answering respondent is in no way contrary to law and in violation of Articles 14, 16 and 21 of the Constitution of India. Therefore, it is stated that this application is devoid of any merit and the same is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. It is not disputed that at the time of initial appointment of the applicant as Mechanic and he submitted a certificate regarding status of his caste as SC. Accordingly the applicant was appointed against the vacancy earmarked for SC. It was only in the year 1985, the applicant submitted the certificate regarding change of his caste status as ST but as per the letter of National Commission for SC & ST, Jaipur dated 31.1.96, after entry in Govt service, change of caste status by obtaining the SC/ST certificate other than the earlier caste certificate are not valid for any benefit. This communication issued by the National Commission for SC/ST, Jaipur is reproduced ads under:

"Employees who have submitted a certificate initially belonging to schedule caste or schedule tribe and change the status by obtaining the schedule caste or tribe certificate other than the earlier caste certificate are not valid for benefits."

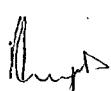
6. On the basis of the above communication issued by the National Commission of SC/ST, the applicant is not entitled to any relief sought for. We, therefore, do not find any arbitrariness, illegality or discrimination on the part of the respondents in not allowing the applicant to change the caste status.



7. It is also pertinent to mention that this O.A has been filed in the year 1997. The applicant initially entered in Govt service as Mechanic and the notification was issued on 29.9.76 but the applicant took no step to raise his grievance till the present O.A is filed. No application for condonation of delay appears to have been filed by the applicant. In the facts and circumstances of this case and settled legal position, we are of the considered opinion that this O.A is hopelessly barred by limitation and the same can be dismissed on this count alone.

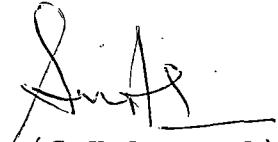
8. Even on merits, as discussed above, the applicant has no case for interference by this Tribunal, therefore, this O.A devoid of any merits is liable to be dismissed.

9. We, therefore, dismiss the O.A with no order as to costs.



(A.P.Nagrath)

Member (A).



(S.K.Agarwal)

Member (J).