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**Central Administrative Tribunal
Jabalpur Bench**

OA No.828/05

Jabalpur, this the 30th day of August 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

Ajay Kumar Madhele
S/o Shri Kandhilal Madhele
P.A (S.B.C.O)
O/o Head Post Office
Shahdol (M.P.)

Applicant

(By advocate Shri M.N.Banerjee)

Versus

1. Union of India through
The Secretary
Department of Telecommunication
New Delhi.
2. The Chef Post Master General
Bhopal Circle
Bhopal.
3. Post Master General
Raipur Region
Raipur.
4. Superintendent of Post Offices
Shahdol Division
Shahdol.

Respondents

(By advocate Shri S.A.Dharmadhikari)

ORDER

By A.K.Gaur, Judicial Member

By filing this OA, the applicant has sought quashing of impugned memorandum dated 14.6.2005 by which departmental inquiry has been initiated against the applicant on the charge of submission of wrong caste certificate at the time of his initial recruitment.

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2. The facts of the case, in nutshell, are that the applicant was appointed as a Postal Assistant against ST quota on 17.11.1995. According to the applicant, he belongs to Madhele caste, a sub-caste of "Dulia" community of Mandla District, which comes under Scheduled Tribe category. While working as Postal assistant at Shahdol, certain complaints were alleged to have been received by the respondents that the applicant belonged to "Basor" Community which came under Schedule Caste and that he did not belong to Scheduled Tribe community. It has been contended by the applicant that certain cases were filed before the Hon. High Court of Madhya Pradesh in similar matters on behalf of Dulia Samaj Sangathan and a status quo order was issued by the High Court in W.P.No.5216/96 (Jagan Prasad Dhulia & 11 others). Apprehending departmental inquiry initiated vide first memo dated 5.4.99, the applicant approached this Tribunal with an earlier OA No.266/99 which was disposed of vide order dated 14.10.2003 with the following directions:-

"The respondents are directed to get ascertained the actual caste of the applicant as well as its status i.e. whether it belongs to SC or ST or OBC from the appropriate forum and thereafter only, they will proceed with the disciplinary enquiry case. Till the decision of the aforesaid forum, the DE case against the applicant shall be kept in abeyance."

3. The grievance of the applicant is that the respondents have now initiated a fresh inquiry by issuing memorandum dated 14.6.2005, which is not permissible as per law. According to him, the respondents had, instead of getting his caste determined by a State level forum, constituted for determining caste as per Hon. Supreme Court decision in Madhuri Patil's case, made enquiry through SDO, that too behind back of the applicant. As the respondents have withdrawn the charges in 2000, they are estopped from proceeding further now with a fresh inquiry. Hence this OA.

4. The respondents have denied the averments contained in the OA. They have contended that a complaint was made against the applicant by certain persons of Village Bhikhampur, Tahsil Niwas, Distt. Mandla to the effect that the applicant had obtained

employment by producing a false caste certificate. The complaint also stated that the applicant belongs to the caste of "Basor" which is notified as Harijan and comes under the category of SC and this fact is borne out from his School Register of Primary School, Bhikhampur. Further, the certificate issued by the Tahsildar Niwas dated 17.2.95 had also corroborated the fact that the caste "Dhuliya" to which the applicant belongs, comes under the Scheduled Caste community. It has further been contended by the respondents that in compliance with the Tribunal's order dated 14.10.03 in OA No.266/99 filed by the applicant, the departmental enquiry was cancelled and the dispute was referred to the National Commission for Scheduled Castes, New Delhi by the CPMG, Chattisgarh Circle, Raipur. The Commission had informed vide Annexure R-1 letter that the verification of such claims comes under the administrative power of the District Collector. Accordingly, the matter was thereafter referred to the District Collector, Mandla for verification and confirmation of the real caste of the applicant. It was on the basis of the report of the District Collector, Mandla, the enquiry was again instituted, which is in consonance with the directions of the Tribunal in the earlier OA filed by the applicant.

5. The learned counsel for the respondents argued that the Tribunal should not interfere with this dispute at an interlocutory stage of inquiry and that the Tribunal should be very careful before granting stay in disciplinary proceedings at interlocutory stage, because the disciplinary authority has not passed any final order. The learned counsel for the respondents has relied on following decisions in support of his argument:

- (i) 1994 (27) ATC 200 – Union of India Vs. Upendra Singh
- (ii) 1992 (27) ATC 70 – Union of India Vs. A.K. Saxena
- (iii) 2000 SCC (L&S) 1100 – Union of India Vs. R.Rajamanikkam.

6. After having heard the learned counsel on either side and having perused the records, we are of the firm opinion that the argument advanced by the learned counsel for the respondents fully

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supports the stand of the respondents in initiating a fresh inquiry against the applicant. The applicant has filed this OA simply to bring the enquiry proceedings to a grinding halt. When the disciplinary authority has not passed any final order, we are not inclined to interfere with the inquiry proceedings under way against the applicant.

6. In the conspectus of the facts and circumstances of the case, the OA is dismissed. However, it is made clear that it will be open to the applicant to approach this Tribunal for redressal of his grievance in the event final orders are passed by the disciplinary authority.

A.K.Gaur
(A.K.Gaur)
Judicial Member

Gaur
(Dr. G.C.Srivastava)
Vice Chairman

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प्रांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अवधि दिन:-

- (1) सचिव, उत्तर नवायालय वार्ड एवं देशभूमि, जबलपुर
- (2) उद्योगसभा श्री/महिला/द्वा.के काउंसल
- (3) प्रत्यार्थी श्री/भीमती/द्वा.के काउंसल
- (4) योग्यालय, ओप्पा., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही द्वा.

M.W.Benoyee

Dr. B.Srivastava

S.A. Mohamed Ali

Dr. B.Srivastava

7/9/08

Dr. G.C.Srivastava

7/9/08