

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 549/03

Guwahati, this the 7th day of December, 2004

CORM

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Vinod Kumar Raikwar
S/o Late Shri B.L.Raikwar
Assistant, Gun Carriage Factory,
Jabalpur.
R/o H.No.594 Near Hanumantal
Jabalpur(M.P.)

Applicant

(By advocate Shri Rajendra Shrivastava)

Versus

1. Union of India through
Secretary, Ministry of Defence
(Production), South Block
New Delhi.
2. Chairman/Director General
Ordnance Factories Board
10-A, S.K.Bose Road
Kolkata.
3. Sr.General Manager
Gun Carriage Factory
Jabalpur.

Respondents

(By advocate Shri P.Shankaran)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:

- (i) To quash the impugned order dated 13.7.02 (Annexure A15) and the consequential order of pay fixation dated 14.7.03 (Annexure



A20) and order dated 28.7.03 of recovery of Rs.40,562 (Annexure A21) in entirety.

2. The brief facts of the case are that the applicant who belongs to "Majhi" caste was appointed as a Lower Division Clerk in the Gun Carriage Factory and was promoted to the post of UDC vide order dated 1.4.80 against general vacancies. By SC/ST Orders (Amendment) Act 1976, caste "Majhi" was included in the list of Schedule Tribe in Madhya pradesh. The competent authority issued the caste certificate to the applicant. Copy of the caste certificate dated 15.4.78 is filed as Annexure A2. On the basis of this certificate, the applicant earned promotion to the post of Office Superintendent Grade II (now known as Assistant) against the vacancy reserved for ST vide order dated 6.1.94 (Annexure A3). In 1998, he was again promoted vide order dated 1.4.98 (Annexure A4) as Office Superintendent Grade I. A show cause notice dated 13.3.99 (Annexure A5) was issued to the apphcant to intimate the correct caste status in appropriate form from the competent authority to the department, failing which the promotion order dated 1.4.98 would be cancelled. The apphcant accordingly submitted the caste certificate in proper form (Annexure A8). But in spite of production of caste certificate, vide order dated 24.1.01 (Annexure A9) his promotion order was cancelled. Again a show cause notice dated 8.12.01 (Annexure A11) was issued to the applicant to explain why the promotion order dated 6.1.94 (Annexure A3) and promotion order dated 5.7.2001 (Annexure A10) sliould not be cancelled in view of the certificate having been found false on enquiry by Collector. The applicant submitted reply to the show cause notice. He also filed OA 8/02. The Tribunal disposed of the OA with a direction to the applicant to approach the Collector about his claim of being a member of ST. The applicant submitted an application dated 5.2.03 to the Collector who issued an order dated 7.2.03 (Annexure A19) by which he informed the correct status of caste certificate dated 15.4.98 to respondent No.3. Thereupon the applicant submitted an application dated 19.6.03 for revival of his promotion but no heed was paid to this letter and on the contrary the impugned order dated 14.7.03 (Annexure A20) was issued



about pay fixation and ordered for recovery of difference and vide order dated 28.7.03 the Accounts officer directed the applicant to deposit Rs.40,562/- (Annexure A21). A charge memo dated 30.12.2002 (Annexure A22) was also issued to the applicant for contemplation of departmental enquiry. The applicant submitted his reply to the charge memo. The impugned orders dated 13.7.02 (Annexure A15; dated 14.7.03 (Annexure A20) and dated 28.7.03 (Annexure A21) are illegal and deserved to be quashed. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant had submitted his caste certificate dated 15.4.78 (Annexure A20) showing the applicant belonging to "Majhi" caste which comes under the category of ST. Our attention is drawn towards the report of the Assistant Commissioner dated 7.2.03 (Annexure A19) in which it is mentioned that the aforesaid certificate was issued from the concerned department. Even then, the respondents have ignored the aforesaid letter of the Assistant Commissioner and have passed the impugned orders while the caste certificate of the applicant is not yet established to be false or bogus by any evidence or any verification got done by the respondents. Hence the action taken by the respondents is fully unjustified and illegal.

4. In reply, the learned counsel for the respondents argued that in 1978, the applicant produced a caste certificate stating that he belonged to Majhi community which is recognised as ST category and this certificate was issued by Zila Samyojak, Adim Jati Kalyan, Jabalpur on 15.4.98 based on his own affidavit. The applicant produced a fresh caste certificate dated 16.4.98 in which it was stated that it was issued based on the caste certificate originally made in the year 1978 but not specifically stated that he belonged to ST community. The Collector, Jabalpur vide his letter dated 26.9.01 (Annexure A12) and dated 29.11.01 intimated respondent No.3 that on enquiry it was found that the caste certificate issued to the applicant is not found correct. Our attention is drawn



towards Annexure R1 filed with the return. Hence the action taken by the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and a careful perusal of the records, we find that the applicant has submitted his caste certificate (Annexure A2) which was not found to be correct by the Collector vide his letter dated 29.11.01 (Annexure A12) but subsequently the Assistant Commissioner vide his letter dated 7.2.03 (Annexure A19) has mentioned that the said certificate was issued from the concerned office and it was not found to be false but the respondents did not accept this letter and had taken action against the applicant on the basis of the earlier report of the Collector. The respondents have admitted the fact the administration is in confusion by the report of the Assistant Commissioner dated 7.2.03 which is against the report of the Collector dated 29.11.01.

6. Considering all the facts and circumstances, we are of the considered view that the respondents ^{should have} ~~ought to confirm the truth~~ about the validity of the caste certificate of the applicant. Hence the respondents are directed to ascertain the validity of the caste certificate of the applicant within a period of four months from the date of receipt of a copy of this order and then pass orders strictly in accordance with rules.

7. The OA is disposed of as above. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठांकन से ओ/न्या. जबलपुर, दि.

प्रतिनिधि वाके निम्न:-

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) उपायुक्त एवं प्रमुख, जबलपुर के काउंसिल
- (3) प्रत्यक्षी एवं प्रमुख, जबलपुर के काउंसिल
- (4) वकील, जबलपुर

सूचना एवं आचरण के अनुसार

Issued
on 13.12.04
[Signature]

[Signature]
[Signature]

Rajendra
Shrivastava
P. Shankar
[Signature]