

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

OA No.750/02

Dated this the 29th day of July, 2004.

CORAM

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

Shri Durga Prasad Kewat
S/o Sh.Ram Prasad Kewat
R/o Near Jhara, Tugaria Masjid
Katni, Dist.Katni (M.P.)

..Applicant

(By advocate Smt.Shobha Menon)

Versus

1. Union of India through
the Secretary
Ministry of Railways
Rail Bhawan, New Delhi.
2. The General Manager
Central Railway,
CST, Mumbai, Mumbai.
3. Divisional Railway Manager
Central Railway
Jabalpur.
4. Divisional Mechanical Engineer
Central Railway
Jabalpur (MP).

...Respondents

(By advocate Shri M.N.Banerji)

ORDER

By Madan Mohan, Judicial Member

The applicant seeks the following reliefs:

- (i) To direct the respondents to release the difference of arrears of salary pertaining to Grade II for the facts and reasons mentioned.
- (ii) To direct the respondents to properly fix the seniority of the applicant in Diesel Mechanic Grade II and grant him all the consequential and ancillary service benefit.
- (iii) To award interest @ 21% per annum for withholding the said amount (i.e.arrears of difference of salary for the period 16.3.1985 to 21.12.1999).

2. The brief facts of the OA are as follows:

The applicant is presently functioning as Technician Grade I. The applicant was issued a memorandum on 16.3.85 whereby he was reverted to a lower grade i.e. from grade II to grade III in the scale of pay of Rs.260-400 for the reason that the caste certificate submitted by him was

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false. The respondents issued another memorandum on 22.11.95 i.e. nearly after a decade, reiterating the charge. Subsequently after four years, respondent No.4 issued an order dated 16.11.99/21.12.99 whereby the charges levelled against the applicant were found to be not proved and accordingly the charge sheet dated 22.11.95 was dropped (Annexure A-3). The memorandum dated 16.385 was passed in a most whimsical manner reverting the applicant to a lower grade i.e. from Grade II to Grade III, which was later withdrawn by the disciplinary authority. Therefore there was no justification for not granting the difference for the said period. The applicant submitted several representations but were not considered by the respondents.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant had submitted his caste certificate as a genuine document. He had not concealed any true facts. The charges issued against him were subsequently dropped vide A-3 letter dated 22nd Dec. 1991. Hence he is entitled for the reliefs claimed.

4. In reply, the learned counsel for the respondents argued that the caste certificate was issued on 15.4.78 (Annexure R1) by District Organiser Adim Jati Kalyan, Jabalpur. The applicant was appointed on 21.2.1979. Similar complaints were received against the applicant. The charge sheet was given to him in the year 1995 but subsequently it was found that the applicant had submitted genuine caste certificate. Hence the charges were dropped vide order dated 22.12.99 (Annexure A3). The District Organiser had issued a letter dated 27.7.78 and it was notified that as per 1976 amendment in the Constitution of India, the caste "MAJHI" had been declared to be in the list of Scheduled Tribe community and any such certificate

for Majhi caste issued by him to a person who belongs to Dhimar, Kewat, Kahar, ~~Mandha~~, Nishad etc, caste or sub caste may be treated as cancelled as such persons do not come under ST community. After verification of the applicant's case, he was reverted to the post of Diesel Mech Gr.III. The applicant was served with a major penalty charge sheet on 22.11.95 for the reason that he had submitted false caste certificate but the enquiry officer submitted his report stating that at the time of submitting the caste certificate dated 15.4.78, the employee was coming in the ST community which was issued by the District Organiser, Adim Jati Kalyan and later the said letter dated 15.4.78 was cancelled by the same authority hence the applicant was not found guilty. Subsequently the charges were dropped. The applicant is not entitled for arrears of difference of salary as a result of the order passed on 21.12.99 as he was already promoted to the post of Diesel Mechanic Gr.II as per general seniority. This order was passed only on the basis of the findings submitted by the enquiry officer. Hence no irregularity or illegality has been committed by the respondents while taking action against the applicant.

5. After hearing the learned counsel for both parties and perusing the records, we find that though the applicant submitted his caste certificate dated 15.4.78 as genuine, subsequently due to the amendment in the Constitution, the persons belonging to that case did not come under the ST community. Hence the certificate was subsequently cancelled by the same authority on finding the correctness of the ~~belonged to~~ certificate that the applicant ^{belonged to} belonged to ST community.

The applicant cannot take the benefit on the basis of the certificate filed by him. Though that may be genuine, but subsequently by an amendment or any force of law, it was



subsequently cancelled, then the respondents were entitled to take suitable action under the changed circumstances and they did so. They have not committed any error, hence the applicant is not entitled for the reliefs claimed.

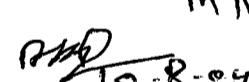
6. The OA deserves to be dismissed and accordingly the OA is dismissed.

Madan Mohan
Judicial Member


M.P. Singh
Vice Chairman

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पृष्ठांकन सं ओ/म्या.....जबलपुर, दि.....
प्रतिलिपि अवधि कित्ता:-

(1) अधिक, उच्च व्यायालय बाब एस्टेलिशमेंट, जबलपुर
(2) अधेक श्री/श्रीमती/स्तु.....के कलंगत Smt. S. Mehta
(3) प्राप्तकी श्री/श्रीमती/स्तु.....के कलंगत M M Banerjee
(4) कंपनी, एस्टेलिशमेंट, जबलपुर व्यार लीड
सूचिया एवं आवश्यक कार्यवाली हेतु 
10-8-04

अध रजिस्ट्रार

*Issued
On 10.8.04
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