

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT CAMP : INDORE

Original Application No.1075 of 2000

Indore, this the 12th day of April, 2004

Hon'ble Shri M.F.Singh - Vice Chairman
Hon'ble Shri Madan Mohan - Judicial Member

Suresh Parmar, S/o Shri Radhakishan Parmar,
Aged 45 years, Occupation Unemployed,
Ex-Upper Division Clerk, Employees State
Insurance Corporation, Indore, R/o 40 ESIC
Nikunj, Opposite MIG Police Station,
Nehru Nagar, Indore (MP)

- Applicant

(By Advocate - Shri Rajendra Tiwari on behalf of Shri CB Patne)

Versus

1. The Union of India, through Secretary to the Government of India, Ministry of Labour, New Delhi.
2. The Employees State Insurance Corporation, Kotla Road, New Delhi, through its Director General.
3. The Regional Director, Employees State Insurance Corporation, Panchadip Bhawan, Nanda Nagar, Indore (MP)

- Respondents

(By Advocate - Shri Vivek Saran)

ORDER (Oral)

By M.P.Singh, Vice Chairman -

By filing this Original Application, the applicant has claimed the following main reliefs-

"8(b) to quash the impugned termination order dated 30.11.2000 (Annexure A/15) issued by Respondent No.3;

(c) to direct the respondents to reinstate the applicant in service forthwith with all consequential service benefits including arrears of pay and allowances, seniority, etc."

2. The brief facts of the case are that the applicant, who was over-aged, has appeared in the recruitment test for the post of Lower Division Clerk. He was granted age relaxation to appear in the said examination as he had disclosed that he belongs to scheduled caste. Thereafter, he has also been promoted as UDC in general category on 15.9.1999 as he was not able to produce the caste certificate. The case of the

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applicant was referred to the headquarters office i.e. respondent no.2. The caste certificate submitted by the applicant was got verified from the Office of the Collector, Tribal Development, Ratlam. It was informed by that office that the applicant does not belong to SC category. The respondents on the basis of this report, have terminated the services of the applicant, in terms of Ministry of Home Affairs OM No.42/34/52-NGS dated 17th April 1953 (Annexure-R-9). Aggrieved by this, the applicant has filed this O.A.

3. Heard both the learned counsel for the parties.

4. The learned counsel for the applicant has submitted that the applicant has not misrepresented any fact. The applicant belongs to 'Dhobi' caste and 'Dhobi' caste is recognised as scheduled caste in the districts of Bhopal, Sehore and Raisen. It was for the authority which issued the caste certificate to verify the fact whether the applicant belongs to scheduled caste or not. Moreover, the issue whether the applicant belongs to scheduled caste or not is required to be referred to the State Level Committee by the respondents as required under the decision of the Hon'ble Supreme Court in the cases of Ku. Madhuri Patil Vs. Addl. Commr(SC) reported in (1994) 6 SCC 241 and AIR 1997 SC 2581. He has also submitted that no charge sheet had been issued and detailed enquiry has not been made by the respondents before terminating the services of the applicant. He has lastly submitted that the applicant be even considered to get benefit under the backward community.

5. On the other hand, the learned counsel for the respondents has stated that it was only on the basis of the caste certificate produced by the applicant, he was granted age relaxation at the time of his appointment, otherwise as a general candidate the applicant was not eligible to appear in the examination. The applicant himself has filled up the application form and stated that he belongs to scheduled caste

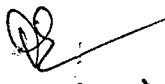
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community, as is evident from Annexure-R-1. He has also drawn our attention to the instructions issued by the Ministry of Home Affairs dated 17.4.1953 under which the services of the applicant have been terminated.

6. We have given careful considerations to the rival contentions of the learned counsel of both sides.

7. It is not in dispute that the applicant has claimed the benefit of age relaxation for appearing in the LDC examination on the basis of a caste certificate that he belongs to scheduled caste. When the applicant had been asked to produce the original caste certificate, ^{with} he ~~has stated that~~ he has not given the original caste certificate to the respondents on the ground that for last 9 - 10 years he has been searching for ^{the same. He} that. Ultimately, the applicant has given a photostat copy of the caste certificate which has been got verified by the respondents from the Office of the Collector, Tribal Development, Ratlam, who has stated that the applicant does not belong to scheduled caste. The applicant has not challenged the order of the Collector Tribal Development and has not gone to the State Level Committee as required in view of the decision in the case of Ku. Madhuri Patil (supra). It is a settled legal position that this Tribunal cannot decide the social status of a person. In this view of the matter, we cannot interfere with the action taken by the respondents to terminate the services of the applicant.

8. In the result, the OA is dismissed being without any merits. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

Copy to - ① Shri Rajendra Tiwari, Advocate Gudare
② Shri Vivek Saran, Advocate Gudare

Filed
20/4/04