

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUROriginal Application No.112 of 1999

Jabalpur, this the 30th day of October, 2003

Hon'ble Shri M.P.Singh, Vice Chairman(A)  
 Hon'ble Shri G.Shanthappa, Judicial Member

Ashok Kumar Mudiya, aged about 29 years,  
 S/o Shri Gulab Singh Mudiya, Wireman  
 (Semi-Skilled), T.No.EE/218/65685/OFK,  
 R/o House No.3287/C, Azad Nagar, Ranjhi,  
 Jabalpur, M.P.  
 (By Advocate-Shri M.K.Verma)

- APPLICANT

Versus

1. Union of India, Through the Secretary, Department of Defence Production and Supplies, Government of India, South Block, New Delhi.
2. The Chairman & DGOF, Ordnance Factory Board, 10-A, Shaheed Khudiram Bose Road, Calcutta-700 001.
3. The General Manager, Ordnance Factory, Khamaria, Jabalpur-482 005, M.P.
4. The District Collector, Narsinghpur, District Narsinghpur, M.P.

- RESPONDENTS

(By Advocate - Shri B.da.Silva)

O R D E Rby M.P.Singh, Vice Chairman(A)-

By filing this application, the applicant has sought for a direction to quash an order dated 9/11.3.1999 (Annexure-A-9) by which the services of the applicant were terminated with immediate effect. He has also prayed for a direction to the respondents to reinstate him in service with all consequential benefits.

2. The brief facts of the case are that the applicant was provisionally appointed as a Wireman (Semi-skilled) in the Ordnance Factory Khamaria, Jabalpur vide order dated 7.1.1998. He was appointed against a post reserved for a scheduled tribe candidate. As per para 10 of the said appointment order, the appointment was made provisional and subject to the validity of the caste certificate of scheduled tribe. The applicant secured employment on the basis of a caste certificate issued by the Deputy Collector, Narsinghpur dated 29.10.1988 (Annexure-A-2). As per the said certificate the applicant belongs to 'Mudiya' caste.

which is recorded as scheduled tribe in Narsinghpur district. The applicant's P.V.RForms were forwarded to the Collector,Narsinghpur for verification of character and antecedents. The District Magistrate,Narsinghpur while intimating that the applicant had a clean record also brought to the notice of the respondents that individuals from Narsinghpur who belong to 'Mudraha' / were securing employment on the basis of scheduled tribe certificate of 'Mudiya'. As per the letter of the District Magistrate Narsinghpur the applicant belongs to 'Mudraha' community which is different from 'Mudiya'. It was categorically stated by the District Magistrate,Narsinghpur that the caste certificate issued by the Deputy Collector, Narsinghpur was erroneous and the applicant did not belong to scheduled tribe category. On receipt of the letter of the District Magistrate the applicant was served with a show cause notice to explain as to why his services should not be terminated. The applicant submitted his reply to the show cause notice. Thereafter the services of the applicant were terminated on the ground that the applicant was not entitled for appointment against the vacancy reserved for scheduled tribe.

3. Heard both the learned counsel at great length, and perused the records.

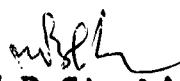
4. The learned counsel for the applicant has submitted that the caste certificate issued by the Deputy Collector,Narsinghpur has not been cancelled,therefore, the said certificate is still valid and the applicant cannot be denied the benefit of the caste certificate. In support of his claim he has relied on the decision of the Hon'ble Supreme Court in the case of Madhuri Patil Vs. Addl. Commissioner (1994)6 SCC 241=1994 SCC(L&S)1349=(1994)28 ATC 259=AIR 1995 SC 94. He has also drawn our attention to Writ Petition No.3242/1996 filed in the Hon'ble High Court of Madhya Pradesh in which an interim order was passed to maintain

status quo. On the other hand, the learned counsel for the respondents has submitted that the caste certificate obtained by the applicant from the Deputy Collector, Narsinghpur was erroneous as the applicant belongs to 'Mudraha' caste and not 'Mudiya' caste. According to him, the 'Mudraha' caste comes under the category of backward classes and not in the category of scheduled tribe. He further submitted that the applicant should approach the State Government against the decision of the District Magistrate for not recognising his caste as a scheduled tribe community or he may ~~also~~ file a writ petition against the decision of the State Government in the Hon'ble High Court, if he is so advised. As the applicant does not belong to scheduled tribe community as confirmed by the District Magistrate, Narsinghpur, his appointment which was provisional and subject to fulfillment of the condition stipulated in Para 10 of the appointment order, has rightly been terminated. The learned counsel for the respondents, to support his claim, has also relied on the decision of Madhuri Patil (supra).

5. After carefully examining the records and submissions made by the learned counsel of both sides, we find that the applicant in this case has been appointed as a Wireman(semi-skilled) in Ordnance Factory Khamaria against a post reserved for a scheduled tribe candidate. He had been appointed on the basis of a certificate issued by the Deputy Collector, Narsinghpur. Later on, the District Magistrate, Narsinghpur has categorically stated that the caste certificate produced by the applicant was erroneous and the applicant does not belong to scheduled tribe community and that the applicant belongs to backward class. The appointment of the applicant was provisional and subject to fulfillment of the condition made in para 10 of the appointment order i.e. subject to verification of the validity of the caste certificate of scheduled tribe. In

this case the certificate of social status issued by the authority is in dispute. The case is, therefore, fully covered by the decision of the Apex Court in the case of Madhuri Patil (supra). The procedure for issuing the caste certificate has been laid down by the Hon'ble Supreme Court in para 13 of the aforesaid judgment. In the circumstances, the applicant is, therefore, required to approach to the competent authority for issuance of a caste certificate as per the procedure laid down by the Hon'ble Supreme Court. We do not find any fault with the action taken by the respondents which is in accordance with the rules. The O.A. is, therefore, devoid of any merit and is accordingly dismissed, however, without any order as to costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman(A)

rkv.

प्रांकल तं ओ/न्या.....जवलपुर, दि.....  
प्रांकल तं ओ/न्या.....जवलपुर, दि.....

(1) श्री क. विजयनाथ, जवलपुर

(2) श्री विजयनाथ, जवलपुर

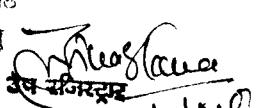
(3) श्री विजयनाथ, जवलपुर

(4) श्री विजयनाथ, जवलपुर

सूचना एवं आवश्यक कार्यकारी हस्त

Shri M. K. Venma Adv. J.B.P.

Shri B. Dasilva Adv. J.B.P.

  
उप-मिस्ट्रेस  
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