

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 266 of 1999

Jabalpur, this the 14th day of October, 2003

Hon'ble Shri J.K.Kaushik-Judicial Member
Hon'ble Shri Anand Kumar Bhatt-Administrative 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.Banerji)

Versus

1. Union of India through the Secretary, Deptt.of Telecommunication, New Delhi.
2. The Chief 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 on behalf of
Shri S.C.Sharma)

O R D E R (Oral)

By J.K.Kaushik, Judicial Member -

Ajay Kumar Madhele has filed this Original Application challenging the memorandum dated 5.4.1999 by which a charge sheet under Rule 14 of CCS(CCA)Rules,1965 has been issued to him alleging submission of fake caste certificate at the time of selection for the post of Postal Assistant.

2. The brief facts of the case are that the applicant belongs to Madhele caste which is sub-caste of Dulia community of Mandla district which comes under scheduled tribe. He submitted the requisite certificate issued by the competent authority and was selected and given appointment on the post of Postal Assistant. Thereafter certain complaints were received against him alleging that the applicant belongs to Basor community which comes under scheduled caste. It is

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also averred that certain cases have been filed before the Hon'ble Madhya Pradesh High Court in similar matters on behalf of Dulia Samaj Sangathan and a status quo order has been issued by the Hon'ble M.P. High Court in W.P. No.5216/1996, (Jagan Prasad Dhulia & 11 others). Further case of the applicant is that he has been issued with a memorandum dated 5.4.1999 initiating departmental enquiry against him.

3. A detailed reply has been filed on behalf of the respondents and the case has been contested on their behalf. It has been averred in the reply that a caste certificate was issued by the Tehsildar and Executive Magistrate, Niwas, District Mandla and on the basis of that certificate the applicant was appointed on the post of Postal Assistant. A complaint was received which has been forwarded to SSPOs, Balaghat for necessary investigation and verification. It has been intimated that the certificate issued by the Tehsildar does not find place in the record of the Tehsildar of Tehsil Niwas. The representation submitted by the applicant has not been found satisfactory. The applicant belongs to 'Basor' caste as per the school certificate issued by the Head Master, which comes in the category of scheduled castes and this fact has been suppressed by the applicant. It is further submitted that the certificate issued by the school authorities and that issued by the Tehsildar are controversial and this fact has been proved during the enquiry. The present OA filed by the applicant is premature. There is no illegality or infirmity in the proceedings against the applicant.

4. We have heard the learned counsel for the parties and have anxiously considered the records of this case.

5. The learned counsel for the applicant has submitted that in a similar matter (W.P.No.5216/96) regarding the same caste, a case has been filed before the Hon'ble MP High Court and an interim order dated 6.8.1997 (Annexure-A-2)

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has been issued for maintenance of status quo. He submits that the applicant being similarly circumstances, the respondents should give him the same treatment in the matter. However, whether that case has been decided or not is not within the knowledge of the applicant. On the other hand, the learned counsel of the respondents has submitted that it is not clear whether the father of the applicant is a party in that case which is filed before the Hon'ble High Court. Further, it is also submitted that in the case of the applicant even the caste certificate issued is fake as per the preliminary enquiry conducted by them, besides that the caste to which the applicant claims to belong does not find place in the list of ST. In case the very certificate is found to be fake, it would not make any difference as to which caste the applicant belongs and as per the verdict of the Hon'ble Supreme Court in State of Haryana Vs. B.K. Meena, AIR 1997 SC 13 it would be in the interest of the respondents as well as in the interest of delinquent employee that the disciplinary proceedings should be expeditiously completed. In this view of the matter, the respondents may be allowed to proceed with the enquiry and the Original Application may be summarily dismissed.

6. We have considered the rival contentions raised on behalf of both the parties.

7. In regard to the disciplinary proceedings, we are aware of our limitation that it is not in every case a Court would interfere in the disciplinary proceeding even after finalisation of the case, least to say at the inter-locutory stage. The statement of law has been propounded by the Hon'ble Supreme Court in Union of India Vs. Upendra Singh, (1994) 27 ATC 200, wherein their Lordships have held that the Tribunal would not lightly interfere in case of the disciplinary proceedings.

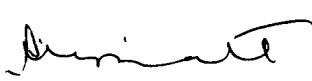
8. Keeping in view the law laid down by the Hon'ble Supreme Court, we would not like to interfere in the

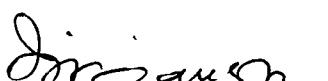
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proceedings which are instituted against the applicant. However, we find that the main controversy involved is regarding the actual caste to which the applicant belongs. As per the charge-sheet even though there is a mention that the certificate issued by the Tehsildar is not registered in the office of the Tehsildar that does not mean that the certificate has not been issued by the Tehsildar until the very certificate is declared nullified by the competent authority. As regards the actual caste of the applicant, no doubt the matter of the caste to which the applicant belongs is already subjudiced before the Hon'ble MP High Court but we are informed that there is a special forum giving final verdict regarding the status of actual caste and such forum has been established in every State. There is also a commission for SC/ST at the central level. It would have been expedient had the matter been got examined from the competent forum/commission by submitting the relevant documents along with the complaint. After the verdict of the said forum, the disciplinary case could be proceeded with and finalised. In this view of the matter we dispose of this OA with the following order:

The respondents are directed to get ascertain 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.

No costs.


(Anand Kumar Bhatt)
Administrative Member


(J.K.Kaushik)
Judicial Member