

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR, BENCH, JABALPUR

Original Application No. 35 of 1998

Jabalpur, this the 14th day of August, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Kundan Lal Vatte, S/o Late Thunnulal.
R/o House No:- 4229/Neta Colony, Adhartal,
Jabalpur, M.P. Occupation Service as
Lower Division Clerk, 1993/NTE,
Main Store, Gun Carriage Factory,
Jabalpur M.P.

APPLICANT

(By Advocate - Shri K. Dutta)

VERSUS

1. Union of India through,
The General Manager,
Gun Carriage Factory,
Jabalpur M.P.
2. Devideen Kotee
Upper Division Clerk
829/PV/Gun Carriage Factory,
Jabalpur, M.P.
3. Smt. Shankuntala Raikwar,
Upper Division Clerk,
238/PV/Gun Carriage Factory,
Jabalpur, M.P.
4. Smt. Savitri Devi Kosta
Upper Division Clerk
91/Estt./Gun Carriage Factory,
Jabalpur, M.P.
5. M.C. Kosta
Upper Division Clerk
NIE/2301/700680
Gun Carriage Factory,
Jabalpur, M.P.
6. H.C. Rajak
Upper Division Clerk
Per. No. 701681/Tank Shop
Gun Carriage Factory,
Jabalpur, M.P.

RESPONDENTS

(By Advocate - Shri P. Shankaran holding brief of B. Dasilva)

ORDER

By J.K. Kaushik, Judicial Member -

Kundan Lal Vattee has filed this Original
Application with the prayer that the respondents may be
directed to consider the claim of the applicant's
promotion in the reserved vacancy of scheduled tribe

for the post of UDC from a retrospective date when first time the applicant has been denied his chance of promotion; and also to consider his claim for further promotion. It has also been prayed that appropriate steps may be taken to cancel the promotions made to the post of UDC in respect of unauthorised benefit of reservation given to private-respondents.

2. The brief facts of the case are that the applicant was appointed to the post of Checker in Gun Carriage Factory, Jabalpur. Thereafter he was appointed to the post of Lower Division Clerk from 1.9.1980. He belongs to Gond tribe. As per the relevant provision, his caste falls in the category of scheduled tribe and, therefore, he is entitled to the benefit of reservation in the matter of promotion and other benefits. It is averred that certain vacancies had fallen vacant in the year 1994 when respondents 2 and 3 were allowed promotion to the post of UDC against the reserved vacancy for ST. Similarly, in the year 1985 respondent no.4 was allowed the said benefit. Thereafter, respondent no.5 has been allowed the benefit against the ST vacancy in the year 1992. The respondent no.6 also has been promoted against the ST point on 28.8.1997. It has been averred that none of the private-respondents in fact belong to ST but they have been given the benefit of promotion against the ST point. The Original Application has been filed on the ground that the respondent no.1 has not taken appropriate steps as per the Government's policy to cancel their illegal and unauthorised promotion.

3. The respondent no.1 has filed a detailed reply wherein it has been submitted that the applicant could not be promoted to the post of UDC against the reserved category of ST since his name is placed at serial no.95 of the seniority list. It has been further averred that respondents 2 to 6 have been promoted in 1984 or thereafter and the applicant did not object their promotion at that time.

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Hence, the Original Application suffers from delay and laches. It has also been submitted that the private-respondents were promoted on the basis of certificates issued by the District Magistrate, Jabalpur and based on the report of the District Magistrate, Jabalpur further departmental action has been taken but concerned officials have approached this Tribunal and some of them have gone to the Hon'ble High Court also. Their cases are subjudiced and are only to be decided after finalisation. Therefore, the Original Application is devoid of any merit and needs to be dismissed.

4. It has been ^{by the respondents} submitted that the Collector vide letter dated 25.5.1996 has conveyed that Kosta community does not belong to ST and the certificate issued were cancelled with immediate effect. The show cause notices were issued to the concerned employees but they approached to this Tribunal and their applications are pending for disposal. There is doubt regarding the certificate issued to Shri H.C.Rajak who was promoted subject to the verification of his certificate and since he did not produce the required certificate, his promotion order was cancelled.
5. A short rejoinder has been filed to the reply.
6. We have heard the learned counsel of the parties and have carefully perused the records of this case.
7. The learned counsel for the applicant has carried us to the various documents placed on record. In some of the documents we have been shown that the certificate issued in respect of some of the private-respondents have been ordered to be cancelled by the competent authority. He has submitted that despite the cancellation of their certificate, the respondent no.1 is keeping silent and not taking further action in the matter. He has submitted that one side the respondents have said that the matter is under consideration regarding

the verification of the caste certificates of the private-respondents and other side they are taking the plea of limitation. The complete matter is being delayed by the respondents themselves and the applicant is being made to suffer from none of his fault. The persons who are not either authorised for the benefit of ST reservation are enjoying the benefit and the applicant who is the actual incumbent and entitled for the same is being deprived for the frivolous reasons. On the contrary, the learned counsel of the respondents has submitted that no doubt it is true in case of some of the private-respondents the competent authority has cancelled their caste certificates and in one of the case the competent authority has held that Kosta caste is not included in the ST category, but the respondent no.1 is not in a position to take any action since the moment they take resort to the action against them by issuing show cause notice, they immediately approached to this Tribunal and some of them have even gone to the Hon'ble High Court and the High Court has passed an order in one of the case that the order of cancellation issued by the Collector should be treated as a notice and the individual would report to the Collector and they will be given a hearing in the matter. The learned counsel for the respondents further submitted that this very Bench of the Tribunal in O.A.No. 319 of 1997, M.C.Kosta Vs. Union of India and others decided on 15.2.2002 directed that the applicants may approach the appropriate forum for the remedy against cancellation of the caste certificates within a period of two months and till then the respondents shall not give effect to the show cause notice issued to the individuals. He has expressed his inability to apprise as to what has happened subsequently. He only submitted that the matter is going on with the Collector regarding the cancellation of the caste certificate and the moment the same is finalised, they will proceed in the matter and the fate of the applicant would naturally

depend upon the finalisation of this matter by the Collector.

8. We have considered the rival contentions raised on behalf of the parties and at the out set we observe that this is a very hard case and the matter is pending for adjudication before a quasi-judicial authority and we cannot interfere in the working of the quasi-judicial authority, specially when we are exercising no superintendence on such authorities. However, we hope and trust that the concerned Collector will take notice of our sentiments and observations and would expedite the pending cases in respect of the private-respondents to this Original Applications so that ends of justice could be materialised.

9. In the premises, we dispose of this O.A. with a direction to respondent no.1 that as soon as the cases of respondents 2 to 5 regarding cancellation of their caste certificates are finalised by the competent authority, the follow up action shall be taken immediately and if such persons are found not belonging to ST category, the applicant's case should be considered in accordance with rules.

10. The Registry is directed to send a copy of this order directly to the Collector, Jabalpur for information and necessary action, as per our observations in the preceding paragraphs.

11. In the facts and circumstances of the case, the parties are directed to bear their own costs.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

rkv.

पृष्ठांकन सं लो/न्या.....जबलपुर, दि.....

परिचालित अथवा प्राप्त:-

- (1) ~~सूचना, राज. न्यायालय नगर हरमोसिहरान, जबलपुर~~
 - (2) ~~अधीनस्थ/सहायक/.....के कार्यालय~~
 - (3) ~~प्रत्यक्ष/सहायक/.....के कार्यालय~~
 - (4) जयपुर, टिकट भा, जबलपुर न्यायापीठ
- सूचना एवं आवश्यक कार्यवाही हेतु

K. Dutta - Adm
B. Chakraborty Adm

Issued
29.8.03

Indu Sharma