

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

Original Application No. 260/00508 of 2015
Cuttack, this the 2nd day of January, 2018

CORAM
HON'BLE MR. S.K.PATTNAIK, MEMBER (J)
HON'BLE DR. M. SARANGI, MEMBER (A)

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Ramesh Kumar Ramani,
Aged about 40 years,
S/o Rajendra Ramani,
Q.No. A-46/2, At/PO- Railway Colony,
Rourkela, Dist. Sundargarh,
Permanent resident At-Ganganagar,
PO- Lamtibahal, PS- Brajarajnagar,
Dist- Jharsuguda,
Ex. Junior engineer working under
Respondent No.3 at Rourkela.

...Applicant

Advocates: M/s. D.N.Pattnaik, S.K.Mishra, D. Pati.

VERSUS

1. Divisional Railway Manager (DRM),
S.E. Railway, At/Po- Chakradharpur,
Dist- West Singhbhum, Jharkhand.
2. Sr. Divisional Personnel Officer,
S.E. Railway, At/Po- Chakradharpur,
Dist- West Singhbhum, Jharkhand.
3. Sr. Divisional Electrical Engineer(G) and
Disciplinary Authority,
S.E. Railway, At/Po- Chakradharpur,
Dist- West Singhbhum, Jharkhand.
4. Addl. Divisional Rly. Manager and
Appellate Authority RS(D&A) Rules 1968,
Chakradharpur, Dist- West Singhbhum, Jharkhand.
5. Union of India represented through
General Manager,
S.E.Railway, Garden Reach, Kolkata-43.

..... Respondents

Advocate(s) : Mr. T.Rath

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O R D E R

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant challenges the termination order dated 10.04.2015 (Annexure-A/8) passed by the Disciplinary Authority and the order of Appellate Authority dated 07.07.2015 (Annexure-A/11).

2. The case of the applicant, in short, runs as follows:

The applicant being duly selected was appointed as Khalasi, in Group-D post, on 17.05.1999 and was posted in Electrical (Gen) Power Line Group “A” at Tatanagar under S.E.Railways. In the due course of his employment, he got promotions to the post of Technician-III, Technician-II and Junior Engineer (Electrical). The grievance of the applicant is that while he was working as Junior Engineer at Rourkela, his service was terminated vide order dated 10.04.2015 (Annexure-A/8) issued by Respondent No.3 without giving him any show cause notice. It has been mentioned in the said letter that applicant secured employment in the Railways by submitting Caste Certificate showing him as belonging to Scheduled Tribe community but the verification conducted by the CBI/RNC revealed that the said Caste Certificate was a fake one and the applicant actually belongs to “Kahar” community, which comes under the category of OBC. The applicant approached this Tribunal in O.A. No. 276/2015 challenging his termination order and this Tribunal disposed of the same at admission stage with liberty to the applicant to prefer appeal before the Appellate Authority. Thereafter, the applicant submitted his appeal on 27.05.2015 (Annexure-A/10) before Respondent

No.4, i.e. the Appellate Authority, and the Appellate Authority vide order dated 07.07.2015 (Annexure-A/11) dismissed the appeal. On the above backdrop, the applicant has filed this O.A. praying for the aforesaid reliefs.

3. Respondents contested the case by filing a counter. Respondents have submitted that the applicant, Mr. Umesh Kumar Ramani, was appointed as Khalasi in Group-D cadre on 17.05.1999 under ST Quota (Annexure-A/1). According to the Respondents, applicant had submitted one Caste Certificate issued by Additional Tahasildar, Jharsuguda on 22.02.1996 (Annexure-A/12) showing him as belonging to “Gond Tribe” recognized as ST community vide Misc. Case No. 268/96. Anti Corruption Branch of CBI on receiving information that the applicant even though belong to OBC category has managed employment on the strength of a fake SC certificate, verified the credentials and antecedents of the applicant and reported to Sr. Divisional Personnel Officer, Chakradharpur, vide letter dated 17.03.2015 (Annexure-A/8 series) that the applicant originally belongs to “Kahar Caste”, which comes under OBC category and not ST category. On receipt of such information, the Sr. Divisional Electrical Engineer-cum-Disciplinary Authority examined the case of the applicant in detail and found that the applicant has managed to get his initial appointment in the post of Khalasi under ST category by producing ST Caste Certificate and terminated the service of the applicant vide order dated 10.04.2015. The applicant without exhausting the departmental remedy challenged

the termination order before this Tribunal in O.A. No. 276/2015 and this Tribunal disposed of the same at admission stage with liberty to the applicant to prefer appeal before the Appellate Authority. Thereafter, the applicant submitted his appeal and the Appellate Authority vide order dated 07.07.2015 dismissed the appeal and, thereafter, the applicant has preferred this O.A.

4. The sole contention of the Respondents is that in response to the S.E.Railway Estt. Srl. No. 21/1992 dated 21.01.1992 (Annexure-R/1), in case of a person securing job on production of false caste certificate, procedure prescribed under Railway Servants (D&A) Rules is not required to be followed for termination of service. According to the Respondents, applicant was appointed against ST vacancy and the said certificate was found to be fake by the CBI and, therefore, his appointment was liable to be terminated without a detailed inquiry or assigning any further reasons.

5. In a case of this nature when there is specific allegation of obtaining a false certificate, the onus shifts to the aggrieved party to prove affirmatively by documentary evidence that he belongs to a caste for which he had furnished the caste certificate and does not belong to the caste as stated by the department.

6. The whole case revolves round the caste certificate furnished by the applicant at the time of his appointment where he is shown to be belonging to ST community. It is not pertinent whether the applicant was engaged against the General Category vacancy or against a

Reserved Category vacancy. The moot question for consideration is whether he had furnished a genuine caste certificate or a fake caste certificate. The CBI during investigation found that the applicant belongs to “Kahar” community, which comes under the category of OBC and does not come under ST community. In view of such backdrop, the department had no other option but to get rid of the applicant, who had obtained employment on the basis of a fake caste certificate.

7. Position of law has been set at rest by a catena of decisions reported in the cases of Ram Saran Vs. IG of Police, CRPF [(2006) 2 SCC 541], Union of India & Ors. Vs. Ramesh Gandhi [(2012) 1 SCC 476] and Vikash Pratap Singh Vs. State of Chhattisgarh, [AIR 2013 (SC) 3414]. In the aforesaid cases, Their Lordships have categorically observed that a person, who seeks equity must act in a fair and equitable manner and equity jurisdiction cannot be exercised in case of a person, who got employment on the basis of a false caste certificate by playing fraud. So, in the present case, the applicant, who had obtained the employment by playing fraud, cannot be permitted to plead that he was not given opportunity as no legal right vests on a candidate who has obtained the appointment by fraud. The Railway circular under Estt. Srl. No. 21/1992 clearly envisages that in case of fake caste certificate no regular inquiry is necessary and that is how the department dispensed with regular inquiry and has passed impugned order. Such an order can be set aside only when the applicant would prove specifically by producing a caste certificate by a competent authority to show that he

belongs to ST category and not OBC category as claimed by the department. So long this fact is not proved conversely by the applicant, he cannot be permitted to take any mileage much less in this case. There is nothing wrong in the impugned order calling for interference. Ordered accordingly.

8. The O.A. being devoid of merit is dismissed. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)

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