

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA/20/276/2018

Dated : 27.07.2018

BETWEEN

Gangavamsam Sudarsana Raju,
Aged 53 years,
Motor Driver, Group 'C',
BSNL, O/o the General Manager Telecom District,
SRIKAKULAM – 532 001
S/o. Late Satyanarayana Raju,
BSNL Staff Quarters No.B 1-11,
Arasavalli Junction,
SRIKAKULAM – 532 001.

.... Applicant

AND

1. The Chief General Manager,
Bharat Sanchar Nigam Limited,
A.P. Telecom Circle,
Kaleswararao Market,
Vijayawada – 520 001.
2. The General Manager,
Bharat Sanchar Nigam Limited,
Telecom District.
Srikakulam – 532 001.
3. The Deputy General Manager (Tech),
Bharat Sanchar Nigam Limited,
Telecom District,
Srikakulam – 532 001.

.....Respondents

Counsel for the Applicant : Mr. M. Bhaskar

Counsel for the Respondents : Mrs. A.P. Lakshmi, SC for BSNL

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER
THE HON'BLE MR. BV. SUDHAKAR , ADMIN. MEMBER

ORAL ORDER

(Per Hon'ble Mr. Justice R. Kantha Rao, Judicial Member)

Heard Shri M. Bhaskar, learned counsel appearing for the Applicant and Mrs. A.P. Lakshmi, learned Standing Counsel appearing for the Respondents.

2. The Applicant was appointed as a Motor driver on 05.11.1991 under S.T. quota. He submitted a caste certificate dated 15.7.1991 issued by M.R.O., Parvathipuram, Vizianagaram district. He was confirmed in the said post w.e.f. 5.11.1993 vide Memo dated 9.2.2000. On receiving a complaint from the public that the Applicant obtained the post of Motor Driver by producing a false caste certificate, the Additional General Manager, Srikakulam lodged a complaint on 29.5.2017 against the Applicant with the police. The Police registered a case against the Applicant. He was arrested on 16.6.2017 by the Police of One Town Police Station, Srikakulam and was released on bail on 11.7.2017. The Applicant was kept under deemed suspension vide order dated 5.7.2017 w.e.f. 16.6.2017. Thus, the Applicant is now continuing under suspension.

3. The present O.A. is filed by the Applicant challenging the order of suspension seeking the relief of setting aside the same on the ground that it is illegal and arbitrary and also to pass necessary orders having regard to the facts and circumstances of the case. The main contention of the Applicant is that the caste certificate issued by MRO to him basing on which he joined into

service in the Respondent's organisation has to be cancelled in the manner as provided in the Andhra Pradesh (Scheduled Castes, Scheduled Tribes & Backward Classes) Regulation of Issue of Community Certificates Act 1993 – in short Act No.16 of 1993. According to the applicant, keeping him under suspension is contrary to the provisions of the said Act and, therefore, the same is required to be set aside immediately.

4. The Respondents filed their reply statement contending inter alia that the General Manager, BSNL, Srikakulam referred the matter to the Collector to get an inquiry conducted into the genuineness or falsity of the caste certificate produced by the Applicant and to cancel the same. In response thereto, the Collector authorized the Revenue Divisional Officer, Parvathipuram to make inquiry into the genuineness of the caste certificate of the Applicant. The Revenue Divisional Officer, Parvathipuram conducted inquiry and submitted a report to the Collector stating that the caste certificate produced by the Applicant is false. The Collector in turn informed the Deputy General Manager, BSNL, Srikakulam by letter dated 6.1.2017 about the report submitted by the Revenue Divisional Officer to him and also mentioned therein that the certificate produced by the Applicant is liable for cancellation. The Collector also addressed a letter dated 25.5.2016 to the Project Officer, ITDA, Parvathipuram to cause inquiry and finalise the issues relating to Kondadora caste certificate held by the Applicant.

5. Thus, obviously the caste certificate of Kondadora which is said to be a Scheduled Tribe produced by the Applicant has so far not been cancelled. Now the question of determination in the O.A. is when it is not cancelled in accordance with the provisions of Act No.16 of 1993, whether any disciplinary

inquiry can be initiated against the Applicant during which the Applicant can be suspended. Section 21 of the Act lays down that a community certificate issued by any authority competent to issue under the rules or orders before the commencement of this Act shall, unless it is cancelled under the provisions of this Act, be valid and shall be deemed to have been issued under the provisions of this Act. Therefore, the mere statement of the Revenue Divisional Officer in his report submitted to the Collector that the caste certificate held by the Applicant is false and the Applicant does not belong to the community of Kondadora, does not automatically invalidate the certificate.

6. From the facts and circumstances of the case which have been narrated hereinabove, it is understood that the issue regarding the cancellation of caste certificate of the Applicant is pending with the Collector. Unless it is cancelled according to the provisions of Act No.16 of 1993, the certificate is presumed to be valid notwithstanding the fact that its cancellation is pending with the Collector. Unless the caste certificate is cancelled under the provisions of the Act, the Respondents in our considered view, are not empowered to initiate any disciplinary proceedings against the Applicant. Therefore, the disciplinary proceedings initiated against the Applicant on the charge of producing false caste certificate are not valid in the eyes of law. When the Respondents are not empowered to initiate the disciplinary proceedings against the Applicant, the impugned order of suspension passed against him is illegal and is liable to be set aside in the present O.A. Further, the Deputy General Manager, BSNL without obtaining the order of cancellation of the caste certificate ought not to have lodged complaint against the Applicant due to which he was arrested and later on suspended.

7. For foregoing reasons, the impugned orders dated 26.9.2017, 25.1.2018 & 8.3.2018 are set aside and the departmental inquiry initiated against the Applicant is quashed. The Respondents are however at liberty to initiate fresh disciplinary proceedings after obtaining the orders of cancellation of the caste certificate from the competent authority under the Act 16 of 1993. Therefore, the O.A. is allowed. No order as to costs.

(B.V. SUDHAKAR)
ADMIN. MEMBER

(JUSTICE R. KANTHA RAO)
JUDL. MEMBER

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