

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

ORIGINAL APPLICATION NO.170/01464/2018

DATED THIS THE 17th DAY OF SEPTEMBER, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Sri. Girish K
S/o Kaniram Devalu Naik
Aged about 32 years
Plot No.6, Pooja Colony
Kusnoor Road
Opp: Telkar Building
Gulbarga – 585106
Karnataka.

....Applicant

(Party-in-person)

Vs.

1. The Union of India
Represented by its Secretary
Ministry of Home Affairs
Government of India
North Block
New Delhi-1.
2. Intelligence Bureau
Ministry of Home Affairs
Government of India
No.35, Sardar Patel Marg
Chanakyapuri
New Delhi – 110 021.
represented by its Director.
3. Assistant Director
Intelligence Bureau
Ministry of Home Affairs
Government of India
New Delhi-110 001.
4. Assistant Director
Intelligence Bureau
(Subsidiary Intelligence Bureau)
Ministry of Home Affairs

Government of India
9th Floor, BMTTC Bus Depot
Koramangala
Bengaluru-560034
Karnataka State.

....Respondents

(By Advocate Sri V.N.Holla, Sr.SC for CG)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The factual matrix of the case is as follows:

The applicant had applied to the post of Assistant Central Intelligence Officer-Grade II/Executive Examination 2012(Annexure-A1) through online to the website of 2nd respondent. He received e-mail intimation dtd.17.12.2012(Annexure-A2) and as per the online instructions, he downloaded Admit Card from internet(Annexure-A3) for Assistant Central Intelligence Officer – Grade II/Executive Examination 2012 which was scheduled on 23.09.2012 and accordingly appeared for the written test and interview conducted between 9th to 15th of December 2012 with registration No.05015003-MHA100558640. He downloaded the final result of written test dtd.23.9.2012(Annexure-A4). When he did not receive any intimation from any of the respondents, by his personal efforts, he came to know on 25.6.2018(Annexure-A5) that he was finally selected for the above post. The applicant belongs to SC community and copy of the same is produced as Annexure-A6. The applicant immediately on 30.6.2018(Annexure-A7) got issued legal notice to the 2nd & 4th respondents. He also sent legal notice through register post(Annexure-A8). He obtained online postal acknowledgment having duly served the said legal notice on 2nd & 4th respondents(Annexure-A9). But to his surprise, the said respondents kept silent without replying the said legal notice. He submits that the conduct of the

respondents is vulnerable and they never communicated the applicant either about the final selection or grounds for rejection of issuing appointment letter. The officials of the office of respondent No.2 have not allowed him to enter their office thus he is denied natural justice to enquire about the reason and grounds for rejection of his final selection, if any. He was not even allowed to enter the office of 4th respondent thus forced the applicant to get issue a legal notice to the 2nd & 4th respondents. The 2nd & 4th respondents being responsible officers, even to this day not replied to the said legal notice. He submits that the 2nd respondent to hide the truth of final selection of the applicant to the above post released through his website, thus the applicant never come to notice of such final selection. The 2nd respondent not even sent to this day the hard copy of the said final selection by way of registered post to the postal address and they removed/deleted the final results from its website for the reasons best known to them. The cause of action has arisen only on 25.6.2018 the date of knowledge of his selection to the post and hence he filed the application for condonation of delay if any, in filing the OA. Being aggrieved by the inaction of the respondents, the applicant has filed the present OA seeking the following relief:

- a. *To call for entire records pertaining to conduct of examination, selection, results and issuance of appointment letters relating to Assistant Central Intelligence Officer – Grade II/Executive Examination 2012 from the office/s of Respondent No.1 to 4.*
- b. *To declare applicant as eligible for post of Assistant Central Intelligence Officer – Grade II/Executive Examination 2012.*
- c. *To issue suitable directions to Respondent No.1 to 4 to appoint applicant as Assistant Central Intelligence Officer – Grade II/Executive.*
- d. *To issue further direction to Respondent No.1 to 4 to pay arrears of entire salary and be promoted consequently from the date of his selection to the said post.*
- e. *And to pass appropriate orders and grant such other relief as this Hon'ble Court deems fit in the circumstances of the case.*

2. Per contra, the respondents have submitted in their reply statement that the application is hopelessly barred by limitation as the prayer of the applicant is with regard to the Asst.Central Intelligence Officer Gr-II(ACIO-II) Examination of 2012. His prayer is purely speculative and devoid of merits and is liable to be rejected in limine. The applicant has no vested right to seek for the remedy as pleaded by him in the OA.
3. The respondents submit that the applicant was selected for the post of ACIO-II/Exe in Intelligence Bureau(IB) on the basis of written test and interview held in 2012. The final result was published on MHA site on 24.12.2012 as also in Employment News on 8/14.6.2013(Annexure-R6). Subsequently, his Character & Antecedent (C&A) verification was conducted by the 2nd respondent. At the time of interview, the applicant had submitted an SC certificate(Annexure-R1) issued from the office of Tehsildar, Gulbarga declaring the applicant as belonging to Lambani Caste. However, during C&A verification, it was found that the said caste certificate in respect of the applicant was actually not issued from the office of Tehsildar, Gulbarga. A letter to this effect was also received from Tehsildar, Gulbarga(Annexure-R2) denying issuance of any such certificate. As the applicant had submitted fake caste(SC) certificate, his candidature for the post of ACIO-II/Exe in IB was cancelled vide memo dtd.13.5.2013(Annexure-R3) in terms of DoP&T OM dtd.20.3.2007(Annexure-R4). The cancellation memo dtd.13.5.2013 was got delivered to him by Bangalore Unit on 23.5.2013 and an acknowledgement was also received from him(Annexure-R5). As such, the case of the applicant for the post of ACIO-II/Exe was closed and vacancy in respect of him was got filled up by subsequent panel/exam. Since the issue had reached finality for the applicant with the issuance of Cancellation Memo dtd.13.5.2013 on

23.5.2013, the cause of action, if any to the applicant had arisen in May 2013 itself and lasted till 24.5.2014 itself. The applicant has approached the Tribunal more than 4 ½ years after the expiry of limitation date. Thus the OA is barred by limitation and on this ground alone, the OA is liable to be rejected. The applicant has not made any application for condonation of delay since May 2013 and no notice was received by the respondents to that effect. Legal Notice dt.29.6.2018 cannot save limitation commenced from May 2014.

4. The respondents further submit that the averments of the applicant are false and no discrimination is made by the respondents. As the candidature of the applicant was cancelled as per DoP&T guidelines, legal notice was not replied to and the cancellation letter was self explanatory. It was not understood why the applicant is raking up the issue of his appointment after 5 years when his candidature was cancelled in 2013 itself. As regards him being not allowed to enter into office premises, the respondents submit that being a sensitive and secret organisation, their offices are not open to general public. However, information related to general public such as result of an examination are displayed on MHA portal and Employment News. The applicant misrepresented the factual position by claiming that he was not informed about his final result. The applicant is well aware of the recruitment process and admittedly, applied for the post through online process and got the result of the written exam and schedule of interview through the website of the 2nd respondent. Hence, the averments of the applicant are baseless and devoid of merit. Accordingly, the OA is liable to be dismissed with cost.
5. The applicant has filed rejoinder reiterating the submission already made in the OA and submits that Annexure-R3 stated to be cancellation memo dtd.13.5.2013

is a created document. Further it is never delivered on the applicant on 23.5.2013(Annexure-R5) or any other day. The alleged signature on Annexure-R5 is not that of applicant and it is forged and created signature. On comparison of the signature of the applicant on Annexure-R5 and on the Vakalath, it clearly shows that it is a created and forged signature. He prays to call for the original of R5 and send the same to the handwriting experts for examination and report. The Annexure-R5 is not a postal acknowledgment but a created document. It does not bear the postal seal on it. Since both the documents at Annexure-R3 & R5 are forged and created one, an enquiry may be ordered to be held in this regard. If at all the respondents have any such documents like Annexure-R3 & R5, then they would have replied to the statutory legal notice as such the respondents have no locus standi to take a contention that the applicant approached the Tribunal after a delay of 4 ½ years and hence the OA is barred by limitation since the cause of action arise for the applicant on 29.6.2018 and the right of the respondents already waived off by themselves since they have not replied to the said legal notice.

6. The applicant submits that publishing the results of the said post either in MHA website on 24.12.2012 or in the Employment News on 8.6.2013 is insufficient as it is not within the reach of the persons like the applicant being hailing from different parts of rural areas of entire country. If such results were fair, then the respondents would have published the same in the National and State Newspapers. Having not done so, the applicant is denied the natural justice of knowing the results in the common Newspapers and thereby the respondents have established their malafide intention. The selection procedure adopted by the respondents in view of their own document i.e. DoP&T OM dtd.20.3.2007

goes to show that there is something fishy in that. If at all the caste certificate submitted by the applicant was really wrong, then why the respondents kept quiet without initiating any action against the applicant. The applicant and his parents who are serving as Gazetted officers belong to Lambani caste which comes under SC category. He enclosed the caste certificates of his parents and affidavit given by one Sri Manikappa Mangalgi, the then Tehsildar with regard to the genuineness of caste certificate of the applicant. He submits that if his claim as SC candidate is disproved, he is ready to face any punishment. Thus all the allegations made by the respondents are false and frivolous.

7. The respondents have filed counter reply to the rejoinder and submit that as regards the difference in signature on Annexure-R5 with that of the applicant, vested interest of the signatory of the Annexure-R5 may be the reason behind the difference. The letter dtd.13.5.2013(Annexure-R4) intimating the applicant's disapproval of his candidature for the post of ACIO-II/Exe was signed by the IB official and issued to the candidate through their own channel. Hence, there is no question of postal seal on Annexure-R4 & R5. Having not found any other job, it appears that the applicant is trying out last chance to seek appointment in IB by filing this case after about five years. On the allegations regarding publishing of the result in the Employment News and on MHA website was insufficient or biased against SC/ST candidates, they submit that the same are false and baseless as no other candidate has complained of such issue. As his caste certificate was found to be fake during C&A verification, his candidature was not approved for the post of ACIO-II/Exe as per the DoPT OM dtd.20.3.2007. The same was intimated to the applicant vide letter dtd.13.5.2013. However, as per practice in the Bureau, the detailed reason for disapproval of his candidature was

not disclosed in the aforesaid letter. As such the statement that the respondents kept quiet without initiating any action against the applicant is false and hence denied.

8. They have filed reply to the IA filed by the applicant stating that the original copies of documents i.e. acknowledgment dtd.23.5.2013 signed by the applicant of having received the intimation of rejection of his candidature vide memo dtd.13.5.2013 and Annexures-R1 & R7 are not available. However, they enclosed the photocopies of the letter issued from the office of Tehsildar, Gulbarga denying the issuance of caste certificate(SC) to the applicant with English translation, acknowledgment dtd.23.5.2013 of receipt of memo dtd.13.5.2013 signed by the applicant etc. to support their contention.
9. The applicant has filed rejoinder to the additional reply filed by the respondents and submits that the author of the caste certificate, the then Tehsildar has given his affidavit dtd.11.3.2019 indicating genuineness of the certificate. The respondents have not at all enquired about the genuineness of caste certificate and came to the conclusion that it was a fake caste certificate. The submission of the respondents that the acknowledgment dtd.23.5.2013 signed by the applicant of having received the intimation of rejection of his candidature vide memo dtd.13.5.2013 is not available, shows that they forged his signature on the said acknowledgment dtd.23.5.2013. The applicant has also filed an affidavit enclosing therewith the Annexure-R5 i.e. acknowledgment dtd.23.5.2013 alleged to have been signed by him and his three specimen signatures requesting to send the same to the Handwriting expert .
10. The respondents have filed counter reply to the same and submitted that the vested interest may be the reason behind the difference in signature on

Annexure-R5 with that of the applicant. The documents of other nature submitted by the applicant i.e. the affidavit submitted by the then Tehsildar has no relevance. The genuineness of the SC certificate dtd.31.1.2009 has to be viewed in the light of Annexure-R2. The allegation that the respondents have forged the signature of the applicant is malicious.

11. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. The applicant was one among the candidates who had been selected for appointment to the post of ACIO-II/Exe in the Intelligence Bureau based on the final result of the examination of 2012 as can be seen from Annexure-A5. The applicant submits that he belongs to Scheduled Caste as evidenced by the certified copy at Annexure-A6. The applicant was not finally appointed and the respondents have replied that based on the verification of the character and antecedents of the applicant, it was found that the SC certificate issued to him was fake as evidenced by Annexure-R2. The respondents would also say that his non-selection was intimated to him vide Annexure-R5 which has also been acknowledged by him. The respondents state that this confirms that the question of limitation would apply since having known that he was not selected in the year 2013 itself, he has chosen to file this application only in the year 2018 and hence severely barred by limitation. The applicant would contend that the signature at Annexure-R5 is not his as can be evidenced from his signature in the application itself as well as in the admit card for the examination vide Annexure-A3. He has also produced an affidavit from the officer who is supposed to have signed the original caste certificate dtd.31.01.2009 along with transfer certificate, study certificate issued by the School and caste certificates of his parents. Further during the proceedings of

this application, he has also filed additional documents of the caste certificate of his younger sister and her school study certificate along with copies of the original caste certificate and transfer certificate issued in the name of his father and mother. It is curious to notice that the respondents' case mainly rests on Annexure-R2. A translated copy of the said Annexure is also available vide Annexure-R9 as well as Annexure-R2. In the translated copy of the Annexure-R2, the date has been written by hand and there is correction in the date in the reference also. While the letter in Kannada mentions about the address of the applicant, the English translation does not contain any information about the address of the applicant. Another copy is kept vide Annexure-R9 where in the reference letter, the date is mentioned as 06.02.2010 which is before the start of recruitment process for this particular appointment. A doubt is also raised by the applicant relating to the signature in the acknowledgment of having received the information about his rejection dtd.23.5.2013. A careful consideration of all these papers would bring out the fact that there is something fishy in the whole selection process relating to this applicant. Since a number of documents have been produced by the applicant, it is necessary that the respondents should seek for a proper report from the office which has issued the caste certificate dtd.31.01.2009 and also another one dtd.26.03.2013 enclosed as Annexure-A6 by the applicant which is a permanent caste certificate stating clearly that the applicant belongs to Scheduled Caste. This exercise the respondents should complete within a period of two(2) months, if necessary by deputing a responsible official to the concerned Taluk office to enquire relating to the genuineness of the caste certificate and in case of finding the caste certificate to

be genuine, give appointment to the applicant within a period of two(2) weeks from the date of confirmation of the same.

12. The OA is allowed with the above orders.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred by the applicant in OA.No.170/01464/2018

Annexure-A1: Application submitted by the applicant dtd.8.8.2012

Annexure-A2: E-mail intimation dtd.17.12.2012

Annexure-A3: Admit Card dtd.23.9.2012

Annexure-A4: Final result of written test dtd.23.9.2012

Annexure-A5: Final result of Interviews

Annexure-A6: Copy of Caste Certificate dtd.26.3.2013

Annexure-A7: Copy of Legal Notice dtd.29.6.2013

Annexure-A8: Copies of Postal Receipts dtd.30.6.2013

Annexure-A9: Copies of Postal Acknowledgements dtd.3.7.2018

Annexures with reply statement:

Annexure-R1: Fake Caste Certificate (SSC) No.4289/2008-2009 dt.31.1.2009 in respect of Shri Girish K

Annexure-R2: Letter dt.14.2.2013 issued from Tehsildar, Gulbarga

Annexure-R3: IB Memo No.56/Estt(G-1)/2013(3)-429-1756 dt.13.5.13

Annexure-R4: DoP&T OM No.11012/7/91-Estt.(A) dt.20.3.2007

Annexure-R5: Acknowledgement dt.23.5.13 of receipt of memo No.56/Estt(G-1)/2013-429-1756 dt.13.5.13 by Sheri Girish K

Annexure-R6: Result of ACIO-II/Exe., Exam-2012 in Employment News dt.8.6.13

Annexures with rejoinder:

Annexure-1: True copy of Transfer certificate

Annexure-2: True copy of School Study Certificate

Annexure-3: True copy of Aadhar Card

Annexure-4: True copy of Parents Caste Certificates

Annexure-5: True copy of Caste certificate of applicant

Annexures with reply to the rejoinder:

Annexure-R7: Copy of Registration slip and Admit card in respect of Shri Girish K

Annexures with reply:

Annexure-R8: Copy of Registration slip and Admit card in respect of Shri Girish K

Annexure-R9: Copy of letter dtd.14.2.2013 issued from the office of Tehsildar, Gulbarga denying the issuance of category certificate (SC) to Shri Girish K with English translation

Annexure-R10: Copy of caste certificate (SC) No.4289/2008-2009 dtd.31.1.2009 in respect of Shri Girish K

Annexure-R11: Copy of acknowledgement dtd.23.5.2013 of receipt of memo No.56/Est(G-1)/2013-429-1756 dt.13.5.2013 signed by Shri Girish K

Annexures with rejoinder to reply:

Annexure-1: Copy of Affidavit of Tahasildar dtd.11.3.2019

Annexure-2: Copy of Study Certificate dtd.10.6.2008

Annexures with MA.372/2019 filed by the applicant:

Annexure-1: Copy of document No.3 that is Acknowledgment dtd.23.5.2013
alleged to be signed by applicant

Annexure-2: Original sample signatures of applicant_

Annexures with reply statement:

-NIL-
