

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4519 of 2007**

Sudesh Paul S/o Late Surendra Paul, Aged about 44 years, R/o Near Guru Ghasidas Mandir, Tarbahar, Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. Union of India, through Secretary, Ministry of Railways, New Delhi.
2. Divisional Railway Manager, South East Central Railway, Bilaspur Division, Bilaspur, Chhattisgarh.
3. Sr. Divisional Mechanical Engineer, South Eastern Railway (Now South East Central Railway) Bilaspur, Chhattisgarh.
4. Collector, Bilaspur, Chhattisgarh.
5. Sub Divisional Officer, Bilaspur, Chhattisgarh.
6. Tahsildar, Bilaspur, Chhattisgarh.
7. Central Administrative Tribunal, Jabalpur Bench, Jabalpur, Madhya Pradesh, Through its Registrar.

---- Respondents**AND****Writ Petition (S) No. 4898 of 2007**

Mukesh Paul S/o Late Surendra Paul, Aged about 36 years, R/o Tarbahar, Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. Union of India, through Secretary, Ministry of Railways, New Delhi.
2. Divisional Railway Manager, South East Central Railway, Bilaspur Division, Bilaspur, Chhattisgarh.
3. Sr. Divisional Mechanical Engineer, South Eastern Railway (Now South East Central Railway) Bilaspur, Chhattisgarh.
4. Collector, Bilaspur, Chhattisgarh.
5. Sub Divisional Officer, Bilaspur, Chhattisgarh.
6. Tahsildar, Bilaspur, Chhattisgarh.
7. Central Administrative Tribunal, Jabalpur Bench, Jabalpur, Madhya Pradesh, Through its Registrar.

---- Respondents

For Petitioner/Students	: Shri Ashish Shrivastava Advocate.
For Respondents No. 1 to 3	: None
For Respondents No. 4 to 6/State	: Shri Y.S.Thakur, Additional Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

23/08/2018

1. Heard counsel for the parties.
2. Both the writ applications arise out of a common order dated 12.04.2007 passed in Original Applications No. 420 of 2006 and 421 of 2006 by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur; hereinafter referred to as 'the Tribunal'.
3. A decision dated 15/17.02.2006 was issued by the Divisional Railway Manager, South East Central Railways, Bilaspur; hereinafter referred to as 'the DRM,' terminating their services on the ground that the caste certificate based on which they had obtained employment was forged one. The termination order became the cause of action for these Petitioners to approach the Tribunal, who on considering all the submissions and the evidences brought before it, held the decision of the DRM terminating the services of these Petitioners to be valid.
4. Under the above circumstances, the writ application came to be filed assailing the decision of the Tribunal primarily on the ground that since the decision of the DRM was unilateral without giving any opportunity of hearing merely on the basis of a report submitted by the Collector, Bilaspur, the Tribunal ought to have set aside the order of termination. The other argument is that the issue in relation to the caste was not even considered and gone into by the Tribunal and that itself created serious prejudice against the Petitioners.
5. So far as the first contention about the DRM having failed to give an opportunity of hearing to these Petitioners is concerned, this Court has to

observe that the issue of caste certificate was referred to by the DRM to the Collector concerned and enquiry was held at the level of the Tahsildar, the Sub Divisional Officer (Revenue), where opportunity of hearing was given to the Petitioners and they were even allowed to tender evidence in support of their case. The end result of all the deliberations is that it was reported by the District Collector to the DRM that the caste certificates which have been used by the Petitioners for obtaining employment are forged since they were not issued by the concerned Tahsildar. If this is so, then termination of service by the DRM cannot be said to be in violation of principles of natural justice because once the report of the Collector was tendered to the DRM office with regard to the authenticity of the caste certificate and that report was sent after giving opportunity of hearing to the Petitioners, therefore, a second opportunity in relation to the fact finding was not required because the DRM was not required to hold a fresh enquiry into issuance of caste certificate by going through the rigmarole all over again. Therefore, the decision of the DRM terminating the services of the Petitioners on the basis of the report tendered by the Collector cannot be said to be erroneous or violation of principles of natural justice.

6. So far as the issue of deliberation relating to the caste is concerned, the Tribunal seems to have gone by the findings which had emerged and since the Tribunal does not have the jurisdiction to go and decide the issue of caste *de novo*, therefore, it rightly refrained from getting taken into by the deliberation of such kind. This again cannot be said to be an erroneous decision of the Tribunal.
7. Bereft of all these, during the various hearing held in these writ applications from time to time, a significant order was passed on 06.12.2012 by the Division Bench. The Division Bench had this to record:

"In these two writ petitions (WPS Nos. 4898 and 4519 of 2007), the Petitioners got their job on the basis of a certificate of Scheduled Tribe (ST), said to be obtained by them by the Collectorate, However, by the Collector, Bilaspur (the Collector) by letter dated 16/17.01.2006 reported that, no such certificates were issued. However, there is nothing to show that the Petitioners do not or do belong to Gond Caste (ST). This question is relevant for deciding the case.

The Petitioners may appear before the Collector within a period of one month and file an application to grant them fresh Caste Certificate. The Collector may himself or send it to the Officer concerned, who is supposed to issue the Caste Certificate. He may grant the certificate after conducting the enquiry. This certificate may be granted without being influenced by the earlier certificates said to be issued to the Petitioners; or the earlier enquiry conducted; or the earlier orders relating to the question whether the Caste Certificates were issued to the Petitioners or not."

8. From a reading of the above order, it is evident that the Division Bench wanted to give a quietus or burial to the earlier controversies relating to the caste status of these Petitioners and gave them a fresh lease of life to obtain a new caste certificate which could establish their *bona fide* or claim of being a Scheduled Tribe belonging to 'Gond' community.
9. From the deliberations so made thereafter, it seems that the Petitioners are in no better situation than they were earlier. If they had succeeded in obtaining a caste certificate afresh from the competent authorities, this Court could have reached out to them by setting aside the order of termination and asking the Railways to take them back in service but it is not so.
10. Despite all the deliberations and exercise, we are back from where we began because the Petitioners are yet to succeed in establishing their claim that they belong to the 'Gond' tribe or are Scheduled Tribe who are entitled to the benefits of reservation.

11. Learned counsel for the Petitioners thereafter strenuously argued trying to find loop-holes in the decision of the revenue authorities in refusing to issue a fresh caste certificate or the review application which came to be filed by them before the Collector to reconsider their matter keeping in mind certain guidelines issued by the State relating to land records not being available or being mandatory for deciding caste status prior to 1950.
12. The Petitioners again have failed to taste success and therefore, bereft of all the arguments and controversies, we still do not reach a conclusion that the Petitioners belong to the 'Gond' community and can be given the benefit of reservation even in the year 2018.
13. Looking at the ambit of the challenge which was made in the writ applications originally which was to assail the order of the Tribunal, this Court will not expand the ambit of the writ applications to go into the issue of non-grant of caste certificate to the Petitioners by the revenue authorities after the Division Bench gave them an opportunity or chance vide order dated 06.12.2012.
14. The writ applications therefore are dismissed. Dismissal of the writ application however will not come in the way of the Petitioners carrying on their legal battle with regard to obtaining a caste certificate or an identity which can give them the benefit of caste and reservation and be back in employment.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE