

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION NO.2850 OF 2014

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The Government of India and its officials in the South Central Railway filed this writ petition assailing the order dated 06.06.2013 passed by the Central Administrative Tribunal, Hyderabad Bench (*hereinafter*, 'the Tribunal'), in O.A.No.496 of 2012.

By order dated 18.02.2014, this Court granted interim suspension of the order under challenge. W.V.M.P.No.1440 of 2017 was filed by the first respondent, the applicant in the O.A., to vacate the said order. Comprehensive arguments having been advanced by both sides, the matter is amenable to final disposal at the interlocutory stage.

The prayer of the first respondent-applicant in the O.A. was to declare the Memorandum dated 25.10.2011, whereby he was dismissed from service, and the Memorandum dated 05.04.2012, whereby his dismissal from service was confirmed in appeal, as illegal.

The first respondent-applicant was inducted in the service of the railways during 1996 against Scheduled Tribe (ST) quota. His claim was that he belonged to Benthoriya community, a Scheduled Tribe. However, a discreet enquiry was gotten made by the District Collector, Srikakulam District, through the Mandal Revenue Officer, Tekkali, and in consequence, the District Collector, Srikakulam, informed the railways, *vide* letter dated 29.07.2004, that the enquiry had revealed that the caste certificate produced by the first respondent-applicant did not find place in the office records. The Mandal Revenue Officer, who undertook the enquiry, had further reported that the first respondent-applicant was a resident of Peddapalem Village,

Sarubujjili Mandal, and that he belonged to Vaddi caste, which would fall in BC-A category. Thereupon, the Assistant Divisional Engineer, South Central Railway, Tuni, recorded that the first respondent-applicant had acquired appointment in the railways by fraudulent means, as he had submitted a fake certificate, and accordingly dismissed him from service with effect from 25.10.2011, under the Memorandum of the same date.

In appeal, the Senior Divisional Engineer (North), South Central Railway, Vijayawada, reiterated the findings that the first respondent-applicant had fraudulently obtained a false caste certificate from the Mandal Revenue Officer, Tekkali, in 1986, but the Mandal Revenue Officer, Tekkali, who had undertaken an enquiry, found that his caste was Vaddi and not Benthoriya, as claimed by him. Affirming that there was no necessity to follow the procedure laid down in the Railway Servants (Discipline & Appeal) Rules, 1968, as the misconduct had already been established by an independent body constituted specifically for that purpose, the Appellate Authority, *vide* Memorandum dated 05.04.2012, confirmed the dismissal from service of the first respondent-applicant.

The Tribunal, however, found that the procedure prescribed in the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for brevity, 'the Act of 1993') and the rules framed thereunder was not adhered to in the context of the Scheduled Tribe caste certificate produced by the first respondent-applicant, when it was doubted. The District Collector was not at all involved in the actual exercise though Section 5 of the Act of 1993 mandates that it is the District Collector who is the proper authority to enquire into the correctness of a caste certificate and cancel the same by way of a Notification, if he finds that it was obtained fraudulently. The Tribunal

accordingly found that there was no legal basis for holding that the first respondent-applicant had produced a false certificate, as no steps had been taken in relation thereto as prescribed by law, and accordingly granted him relief by quashing the Memoranda dated 25.10.2011 and 05.04.2012.

Though Sri P.Gangarami Reddy, learned counsel for the petitioners, would assert that there was no necessity for undertaking the exercise as prescribed in the Act of 1993, in the light of the Mandal Revenue Officer, Tekkali, confirming that there was no evidence of his office having issued the ST caste certificate to the first respondent-applicant, he does not dispute the fact that the caste certificate produced by the first respondent-applicant, duly evidencing that he is a member of Benthoriya community, a Scheduled Tribe, is in the proper form and duly signed by the competent authority, the then Mandal Revenue Officer, Tekkali.

The genuineness of this caste certificate, if doubted, necessarily entailed a proper enquiry in terms of Section 5 of the Act of 1993. Be it noted that Section 21 thereof specifically records that a community certificate issued by the competent authority prior to the commencement of the Act of 1993 shall, unless it is cancelled under the Act of 1993, be valid. As the certificate produced by the first respondent-applicant was dated 11.05.1986, it stood protected under the aforesaid provision. The detailed procedure prescribed under Section 5 of the Act of 1993 required the District Collector concerned to call for the record and enquire into the correctness of the said certificate and it is only if he comes to the opinion that it was obtained fraudulently, he is empowered to cancel the same by a Notification, after giving the person concerned an opportunity of making a representation.

Rule 9 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth

Certificates Rules, 1997 (for brevity, 'the Rules of 1997'), framed under the Act of 1993, deals with the procedure for verification of a caste certificate. The District Collector is required to refer the case to the Scrutiny Committee formed under Rule 8 of the said Rules to enquire into the case and send its findings to him. Upon receipt of such findings, the District Collector is empowered under Rule 9(7) to decide whether the certificate is genuine or fraudulent and thereafter pass an order, if necessary, cancelling the certificate by way of a Notification published in the District Gazette. The Rule also empowers him to communicate the cancellation of the certificate to the appointing authority of the person concerned.

In the light of the detailed procedure prescribed under the Act of 1993 and the Rules of 1997, the Tribunal was correct in its finding that the unorthodox approach adopted by the District Collector, Srikakulam, in asking the Mandal Revenue Officer, Tekkali, to undertake an enquiry, does not have any value. Further, there is no evidence of the District Collector having even issued a Notification cancelling the caste certificate dated 11.05.1986 of the first respondent-applicant. Without such cancellation being effected, the question of the District Collector communicating with the appointing authority of the first respondent-applicant would not arise in the context of Rule 9(7) of the Rules of 1997.

When the caste certificate was not even cancelled, the question of the railways holding that the first respondent-applicant secured employment on the strength of a fraudulent caste certificate also did not arise. The order of the Tribunal holding to this effect and granting relief to the first respondent-applicant therefore does not warrant interference on any count.

The writ petition is devoid of merit and is accordingly dismissed.
Interim order dated 18.02.2014 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

P.KESHAHA RAO, J

20th APRIL, 2018

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