

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12733 of 2009

Sanchit Kumar Ram son of Shiv Muni Ram, resident of village P.O.-Sonpa,
PS-Rajpur, District-Buxar. Petitioner/s

Versus

1. The Union of India through the Secretary, Union Home Ministry,
Government of India, New Delhi.
 2. The Director General, C.R.P.F. CGO Complex North Block, Lodhi Road,
New Delhi.
 3. The I.G. of Police, C.R.P.F Bihar Sector, Patna.
 4. The D.I.G. of Police, C.R.P.F Bihar, Patna.
 5. The Commandant, C.R.P.F 36 Batallion, Gaya. Respondent/s
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Appearance :

For the Petitioner/s : M/s Ram Hriday Prasad and Maruti Kumari, Advs.
For the Respondent/s : Mr. Anjani Kr. Sharan, Asstt. SG

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 15-01-2019

In this case, the petitioner is challenging the order of the removal dated 19th April 2008 (Annexure-2) on the ground that he has not obtained the employment in fraudulent manner by placing the caste certificate of scheduled tribe whereas in reality he is a member of scheduled caste and against that he filed an appeal before the Appellate Authority, Deputy Inspector General of Police, C.R.P.F., Patna, who vide order dated 05.09.2008, rejected the appeal and thereby affirmed the order of the Disciplinary Authority. Against the order of the Appellate Authority, the petitioner approached the Revisional Authority i.e. office of the Inspector General, Bihar Sector, C.R.P.F., who after consideration of the revision application of the petitioner, rejected the same, vide order dated 05.03.2009.



2. In the present case, the point is under consideration as to whether the action which has been taken by the Authority removing the petitioner from service on the ground of fake certificate of scheduled tribe is correct, when he is by caste Chamar, is scheduled caste, requires protection from removing the service.

3. In the present case, the petitioner has made out a case that her mother was married to some one of the scheduled tribe community, who deserted her, whereafter Sri Sheo Muni Ram gave shelter to his mother and also his title, but in originally he is a member of scheduled tribe.

4. An advertisement was published for recruitment on the post of G.D. Constable of Para Military Forces including Constable in C.R.P.F., which the petitioner has succeeded successfully claiming to be a member of scheduled tribe on the strength of certificate issued in his favour of scheduled tribe, he was appointed, but after long span of time it transpired that he is not a member of scheduled tribe, rather he is a member of scheduled caste whereafter he was served a Memo., vide letter dated 17th January 2007 (Annexure-1), to file a show cause for obtaining the employment taking benefit of scheduled tribe certificate. He participated in the inquiry and the Enquiry Officer



found the fraudulent act of the petitioner attaching the forged document of his scheduled tribe certificate and the Disciplinary Authority considered the report of the Enquiry Officer inasmuch as he has also recorded that the Circle Officer, Rajpur, Buxar, vide letter no. 460 dated 11.07.94, has issued the certificate of scheduled caste, but the petitioner has obtained the employment through letter no. 460 dated 11.07.95 wherein his caste has been shown as a member of scheduled tribe and the Enquiry Officer has found the certificate issued to the petitioner with respect to scheduled tribe was/is a forged one whereupon the petitioner has been removed from service. Against that he has filed appeal and revision unsuccessfully.

5. The learned counsel for the petitioner submits that actually the mother of the petitioner was married to a person, who belongs to the scheduled tribe category and when his biological father deserted his mother then she came under the shelter of Sheo Muni Ram. In fact, the said Sheo Muni Ram has adopted the petitioner as his own son, but in reality, he is a member of scheduled tribe so there was/is nothing wrong in his recruitment in the category of scheduled tribe and he has also drawn attention to the order dated 06.11.2018 wherein this Court has opined about the status of the petitioner in a scheduled caste category and has



observed that the petitioner succeeded under the proper selection process and he is equally entitled to the reservation under the scheduled caste category. The Court has also taken a view as to whether the petitioner who has succeeded in selection process would come within the vacancies ear-marked for the scheduled caste candidate or whether any candidate who was appointed under the scheduled caste category has secured lesser than the mark awarded to the petitioner, but no information has been given by the Union of India, in such situation, this Court is of the view that the matter is required to be decided on its merit.

6. In the present case, admittedly a certificate of scheduled caste was issued by the Circle Officer, Rajpur, Buxar, but another certificate has been obtained treating the petitioner as scheduled tribe vide letter no. 460 dated 11.07.1995 was issued showing the caste of the petitioner as Gond, is a member of scheduled tribe. This Court is surprised to know the fact that when the petitioner was issued a certificate of scheduled caste by Circle Officer, vide letter no. 460 dated 11.07.1994 with the same letter number but with difference in it i.e. 11/07/95, another certificate of Schedule Tribe was issued, the date has been changed showing the petitioner as member of scheduled tribe by caste Gond. On the face of it indicates manipulation and tampering has been made in



the caste certificate and on that strength, the petitioner has entered into the service. If the submission of the learned counsel for the petitioner is accepted that the petitioner should be adjusted against the scheduled caste category looking to the marks obtained by him, in that circumstance, any person below in the selection list will have to be pushed out.

7. It will not be proper action in view of the fact that the other person, who has been appointed in scheduled caste category, did not commit any mistake rather entered into the service in the legitimate manner, any appointment obtained by tampering document is a serious matter that too changing the date of year, as by that number, certificate of scheduled caste was issued is letter no. 460 dated 11.07.1994, but the later certificate of scheduled tribe is letter no. 460 dated 11.07.1995 so only there was a slight change of the year from 94 to 95 that itself depicts what manner the petitioner has fraudulently manipulated the certificate and entered into the service. In the matter of fraud, period of limitation does not apply, vitiates entire process of selection.

8. The learned counsel for the respondents has placed reliance on the judgment reported in (1995) 4 SCC 644(G. Sundarasan v. Union of India) wherein the appointment under the category of scheduled caste was obtained, but ultimately it was



found that he was not belonging to scheduled caste after thirty years of service, he was deprived of grant of benefit of retiral dues. The Court has said that if any person has secured an appointment in a fraudulent manner, will not be entitled to the benefit of retiral claim as it will be nothing but a premium to the wrong act done by the government servant, rejected the plea of thirty years delay. The action of the Union of India was affirmed and accordingly the petition was dismissed. In another judgment reported in (2006) 2 SCC 541 (Ram Saran v. I.G. of Police, CRPF and others) in which he has obtained false birth certificate and entered into the service of the C.R.P.F.. A departmental proceeding was initiated and ultimately he was dismissed from service and the Hon'ble Court refused to interfere with the action taken by the authority which was taken after long delay of twenty eight years.

9. In the present case also the petitioner has secured the employment by showing himself to be a scheduled tribe but in fact, he belongs to scheduled caste. The certificate of scheduled caste was issued by the Circle Officer, Rajpur, Buxar but fraudulently the petitioner has manipulated the same making scheduled tribe and obtained the employment. The statement of the petitioner is not sustainable that he does not belong to scheduled caste rather in reality he is a member of scheduled tribe, on



desertion of his biological father of his mother and thereafter, his mother started living with Sheo Munni Ram. The petitioner has failed to give the name of his biological father, as he has stated that he does not know the name of his biological father, it does not stand to the reason, even if the mother has been deserted by a person, the mother must be knowing the name of his biological father and in that event the petitioner is supposed to know the name of his biological father who has been claimed to be a scheduled tribe. The petitioner does not know his biological father as it appears to this Court, the petitioner has developed this story for the purposes of this case cannot be accepted. The Appellate Authority and Revisional Authority have rightly refused to take cognizance of the story developed by him.

10. In this view of the matter, this Court does not find any merit in this present application and the same is accordingly dismissed.

(Shivaji Pandey, J)

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