

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18935 of 2021

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Ramesh Chandra Sinha son of Late Baidyanath Sinha resident of Village and
P.O.- Rupauli, P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The Union of India through the Chief Postmaster General, Bihar Circle, Patna.
2. The Postmaster General, Northern Region, Muzaffarpur.
3. The Director of Postal Service, O/o The Postmaster General, Northern Region, Muzaffarpur.
4. The Senior Superintendent of Post Offices, Muzaffarpur Division, Muzaffarpur.
5. Sri Satya Narayan Ram, GDSBPM at Rupauli Branch Post Office, in account with Gidha Sub Post Office, P.S. Saraiya, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar, Advocate
For the Respondent/s : Mr. Kanak Verma, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 20-07-2022

The petitioner has knocked the doors of Patna High Court for setting aside the order dated 23.10.2019 (Annexure-P1) passed in O.A. No. 050/00066/16 with M.A. No. 050/00036/16 by the Central Administrative Tribunal, Patna Bench Patna (henceforth the short 'the Tribunal') by which the O.A. preferred by him was dismissed.

2. The matrix of facts leading to the present writ



petition is/are as follows :-

3. The post of 'EBPDM', Rupauli EBDC under Muzaffarpur Division had fallen vacant due to promotion of Sri Suresh Chandra Sinha. The vacancy of the said post was notified to Employment Exchange, Muzaffarpur giving the preference to the ST candidate vide Letter No. A-555/Rupalli dated 22/30.09.96 by the Sr. Superintendent of Police, Muzaffarpur. The Employment Exchange, Muzaffarpur sponsored six nominations along with their application and documents vide Letter No. Patrank/O.C./36/96-960 dated 30.10.1996 with breakup of one OBC, one SC and four ST candidates. On the basis of caste certificate of ST issued by the BDO, Saraiya, Muzaffarpur, one Shri Ramesh Chandra Sinha (the petitioner herein) was appointed as 'EBPDM', Rupauli Memo No. A-555/Rupauli/96 dated 26.02.1997 vide Senior Superintendent of Post Office, in preferential category although he was less in merit.

Comparative merit charge of all six candidate shows the factual position.

S.No	Name of Candidate	Caste	Matric Marks	Landed Property	Annual Income
1.	Shri Ramesh Chandra Sinha	ST	505/900	25 dismal	Rs.45000/



2.	Shri Ramakant Singh	ST	510/900	NIL	NIL
3.	Smt. Seema Kumari Sinha	ST	508/900	NIL	NIL
4.	Shri Dharma Dinesh Ray	OBC	607/900	92.54 dismal	Rs.25000/
5.	Shri Shashi Kant Singh	ST	451/900	NIL	NIL
6.	Shri Prabhu Ranjan	SC	484/900	NIL	Rs. 7500/

4. Shri Dharma Dinesh Roy, one of the candidate to the said post had lodged a complaint regarding false caste certificate produced by Shri Ramesh Chandra Sinha (appointed candidate). The case was enquired into and upon the direction of the District Magistrate, Muzaffarpur as per the report submitted by the Block Development Officer, Saraiya there was not a single ST in the said area. Thus Shri Ramesh Chandra Sinha obtained the caste certificate by giving false information to him. The Circle Officer, Saraiya too certified that the caste certificate in respect of Shri Ramesh Chandra Sinha (ST) is false and this was reported to District Welfare Officer, Muzaffarpur vide Letter No. 420 dated 21.04.97 by the office of Circle Officer, Saraiya.

5. After enquiry by the District Magistrate, Muzaffarpur, the caste certificate issued by the BDO, Saraiya to



Shri R.C. Sinha was cancelled vide District Magistrate, Muzaffarpur's Letter No. 1013 dated 10.10.98. It came to light that he is 'Kahar' by caste which comes under the OBC category. Accordingly, his service came to be terminated vide Memo No. 559/Rupauli/96 dated 13.01.2020 by the Director, Postal Services, Northern Region, Muzaffarpur in the light of orders passed by the Post Master General, Northern Region, Muzaffarpur dated 04.01.2000.

6. The petitioner preferred O.A. No. 55/2000 before 'the Tribunal'. On 22.09.2005, 'the Tribunal' dismissed the O.A. holding as follows :-

(i) the applicant was appointed as ST category to the post of EDBPM, Ruapauli in 26.02.1997 on the basis of the caste certificate issued by the District Welfare Officer, who in turn had issued the same on the recommendation of the Block Development Officer, Saraiya holding him to be belonging to 'Kharwar' community under Scheduled Caste category ;

(ii) soon after the appointment a complaint was received in the department that the applicant did not belong to the Scheduled caste and the caste certificate produced by him was false;

(iii) the Senior Superintendent of Post



Office made an inquiry and reported the matter to the District Magistrate, Muzaffarpur, who in turn made detailed enquiry and found the caste certificate produced by the applicant to be false;

(iv) the District Magistrate thereafter passed an order cancelling the said certificate vide Order No. 1043 dated 10.10.1998;

(v) based on the said order of the District Magistrate, Muzaffarpur, show cause notice was issued to the applicant, who submitted his reply on 28.10.1999.

(vi) the Director, Postal Service passed the impugned order dated 04.01.2000 which was challenged before the Tribunal;

7. 'The Tribunal' thereafter vide aforesaid order dated 22.09.2005 held as follows :-

“At the last stage of hearing, a certified copy of the order passed by the Hon'ble High Court, Patna in the case of one Raghunath Prasad was filed. There is no dispute that the persons of 'Kharwar' community belong to ST category. The controversy is that the D.M., Muzaffarpur has found that the application does not belong to 'Kharwar' community. The applicant has not protested or at least he has not succeeded as yet in obtaining an order for fresh enquiry. Till such time as the order of D.M. stands neither the department nor the Tribunal can give him any



relief. About seven years have elapsed since the order of D.M. was passed, we are informed that the applicant has not challenged the said order before the forum having jurisdiction in the matter, except making a request to the District Magistrate himself. The foundation of termination order is the order dated 10.10.1998 passed by the District Magistrate, Muzaffarpur. We have not been informed that the order of the District Magistrate has been set aside or a fresh enquiry ordered in the matter. Therefore, in the face of the order of the District Magistrate that the caste certificate produced by the applicant before the appointing authority was a false certificate, we are unable to interfere with the order of termination.

Resultantly, the OA is dismissed. No order as to costs”.

8. Aggrieved by the said order passed by ‘the Tribunal’, the petitioner preferred CWJC No. 7480 of 2008. The same was heard by Division Bench of this Court and was dismissed on 05.07.2010 with following observations. Paragraph Nos. 5 & 6 of the order as follows - :

“5. It is the case of the petitioner that simply because he has challenged the order of cancellation of caste certificate through his representation, earlier caste certificate should be treated as valid and no interference



should be made with the order appointing him to the post in question as a ST candidate. Considering the entire facts and circumstances and even the submission that petitioner's representation is still pending, we are satisfied that no error can be found with the order terminating petitioner's service and the order of the Tribunal dismissing his application until petitioner succeeds in his challenge to the order of the District Magistrate and getting his earlier caste certificate affirmed or restored. For that the petitioner has so far taken no effective steps by approaching any competent court or authority. Mere pendency of the representation before District Magistrate, Muzaffarpur is not found to be sufficient for holding that earlier caste certificate of the petitioner which has been subsequently found to be false stands restored.

6. As a result of the aforesaid discussion and findings, we hold no merit in this writ petition. The same is accordingly dismissed but without any .. as to costs."

9. It is to be noted herein that both before 'the Tribunal' and later before the Patna High Court, the petitioner-applicant assailed the order of termination dated 04.01.2000 passed by the Director, Postal Services Northern Region, Muzaffarpur was based on cancellation of his caste certificate but he never challenged the said cancellation or caste certificate



by the District Magistrate vide order No. 1043 dated 10.10.1998 for the reasons best known to him.

10. Thus, it is clear that the cancellation of the caste certificate by the District Magistrate, Muzaffarpur in the year 1998 holding that the petitioner does not belong to the 'Kharwar' caste and as such is not entitled to get the ST tag and it has attained finality.

11. However, on 24.09.2013, the Circle Officer, Sariya, pursuant to the application submitted by the petitioner, issued new caste certificate to him declaring him as a member belonging to 'Kharwar' community which falls under the Scheduled Tribe Category (Annexure-P/9 to the writ petition).

12. It is important to note here that there is nothing on record to show that pursuant to the cancellation of the caste certificate of the petitioner in the year 1998 by the District Magistrate, Muzaffarpur, the petitioner filed application before any authority higher to the District Magistrate and/or before the District Magistrate. Neither any new enquiry was held declaring him to be a person belonging to the 'Kharwar' caste under the Scheduled Tribe category. It is also clear that the original caste certificate was never revived. However, like earlier occasion when he managed to get caste certificate issued



from the Block Development Officer, Saraiya, declaring him to be 'Kharwar' caste under scheduled caste category; this time too, he managed fresh caste certificate under ST category issued in his name from the Office of Circle Officer, Saraiya. It is also not the case of the petitioner that any court of law set aside the order passed by the District Magistrate, Muzaffarpur in 1998

13. Armed with the said certificate, the petitioner moved before the District Magistrate, Muzaffarpur for getting the same stamped by his office which is essential for claiming any benefit in the Central Government services.

14. The District Collectorate (Welfare Section), Muzaffarpur vide Letter No. 795 dated 15.09.2014 asked the Circle Officer, Saraiya to confirm the issuance of caste certificate dated 24.09.2013 to the petitioner who in turn vide his office Letter No. 1500 dated 05.11.2014 confirmed the issuance of said certificate to the petitioner.

15. In view of the said confirmation sent by the Circle Officer, Saraiya, the caste certificate of the petitioner got stamped by the office of the Sub Divisional Officer, Muzaffarpur (West) as also the office of the District Magistrate, Muzaffarpur in a routine manner.



16. We state this at the cost of repetition that there is nothing on record to show that the office of the District Magistrate, Muzaffarpur was ever made aware of the fact that the caste certificate showing him under ST category of this petitioner was cancelled by his office vide Order No. 1043 dated 10.10.1998 on the report submitted by the BDO, Saraiya that there was not a single ST people in Saraiya.

17. Emboldened by the issuance of the said caste certificate by the Circle Officer, Saraiya and stamped by the offices of the Sub Divisional Officer and the District Magistrate, Muzaffarpur; the petitioner made representation before the Senior Superintendent of Post Office, Muzaffarpur Division, Muzaffarpur for his reinstatement in 2014. Further representations in the year 2015 whereafter the O.A No. O.A./050/00066/16 with MA/050/00036/16 was filed which came to be dismissed on 23.10.2019 observing as under :-

“5. We have gone through the pleadings and heard the learned counsels of both the parties. In substance, the only argument which the applicant can raise now is the one summarized by the legal maxim quoted by him as “debile fundamentum fallit opus”. The applicant claims that his termination was on ground of his Caste Certificate having been found false. This, after the judgement



of the criminal court on 02.04.2012 and re-issue of certificate by the DM in the year 2013, is no longer true. Though there may be strength in the logic, a case cannot stand on the basis of this logic alone. A perusal of our decision in OA 55/2000 (dated 22.09.2005) and of the Hon'ble High Court in CWJC 7480 of 2008 (dated 05.07.2010) will make it clear that his case was rejected not only because of the cancellation of his earlier certificate but also on ground that the applicant had not challenged the said order (of cancellation of certificate by the DM) even seven years after the order of the DM. The Hon'ble High Court has also observed that the petitioner had not taken any effective steps for approaching any competent court or authority and mere pendency of his representation before DM was not found sufficient for holding in his favour. Therefore, the caste status of the applicant may no longer be in doubt now, it is a fact that it was in doubt for more than a decade during which his appointment was terminated. His efforts to get this termination removed failed not only because of the cancellation of his caste certificate but also because of his not having taken any effective action to get the correct caste certificate. This fact will not change because of the favourable outcome in the criminal case against him and the later issue of a fresh caste certificate. Therefore, he cannot claim to get a post from which he was removed and his removal was not set aside by this Tribunal and the



Hon'ble High Court, partly on ground of the applicant's own failure. Under these circumstances, even though we are inclined to accept the MA/050/00036/16 and condone the delay, the OA fails on grounds of merit and is, therefore, dismissed. No costs."

18. Aggrieved, the petitioner preferred the present writ petition before this Court.

19. Heard learned counsel for the parties.

20. Learned counsel for the petitioner submits that proper enquiry was held followed by issuance of caste certificate by the District Magistrate, Muzaffarpur and as such he is entitled to be reinstated from the post he was terminated by the respondent-authorities. When this Court asked for copy of the enquiry report, learned counsel for the petitioner instead keep on repeating that fresh caste certificate has been issued after proper enquiry.

21. Admitted fact is that the caste certificate showing the petitioner to be of 'Kharwar' caste under ST category was cancelled by the District Magistrate, Muzaffarpur vide order No. 1043 dated 10.10.1998. The petitioner for the reasons based known to him deliberately never challenged the said order which with the passage of time



attained finality.

22. Even challenge to his termination order which was dismissed by 'the Tribunal' in 2005 (OA No. 55 of 2000) and later in 2010 by the Patna High Court (CWJC No. 7480/2008) attained finality. There is nothing on record to show that he ever challenged the cancellation of his caste certificate by the District Magistrate, Muzaffarpur in the year 1998 and/or the same was restored. However, the petitioner again allegedly chose the same *modus operandi* of bypassing the office of the District Magistrate, Muzaffarpur and/or the Superior Authority above the District Magistrate and got the certificate issued by the Circle Officer, Saraiya in 2013. Even assuming that latest ST certificate is in order, however newly obtained caste certificate do not assist him in reviving earlier events in restoring him into service.

23. It is thus clear that the order of 1998 by the District Magistrate, Muzaffarpur was never challenged/cancelled/recalled. It is also not the case of the petitioner that the present caste certificate was issued pursuant to any order of the District Magistrate, Muzaffarpur rather it is the Circle Officer, Saraiya who issued the new caste certificate to the petitioner. It is important to note that although the



petitioner has based his case on the caste certificate so issued, he has not impleaded the District Magistrate, Muzaffarpur, the Sub-Divisional Officer, Muzaffarpur West as also the Circle Officer, Saraiya as party-respondents in the present case.

24. Thus, it is for the District Magistrate, Muzaffarpur to enquire as to how despite the cancellation of caste certificate by his office vide order No. 1043 dated 10.10.1998 (which was never challenged by the petitioner and/or set aside by the any Court of law); the Circle Officer, Saraiya chose to issue him a fresh certificate again holding him as the person belonging to 'Kharwar' Caste in ST category. This is clearly in the teeth of the earlier report of the BDO, Saraiya that there was not a single ST in Saraiya.

25. For the reasons stated above, we hold as follows:-

(i) the caste certificate issued to the petitioner herein showing him to be belonging to 'Kharwar' caste under ST category was cancelled by the District Magistrate, Muzaffarpur vide order No. 1043 dated 10.10.1998 after an enquiry in which BDO, Saraiya reported that there is no ST people in Saraiya;



(ii) the same was never challenged before any Superior Authority to the District Magistrate, Muzaffarpur and/or any Court of law and as such it attained finality;

(iii) following the cancellation of his caste certificate, the respondent-authority issued the letter of termination to him;

(iv) he challenged the same before 'the Tribunal' in O.A. No. 55 of 2000 which was dismissed on 22.09.2005

(v) against the said order dated 22.09.2005 of 'the Tribunal', the petitioner moved before this Court in CWJC No. 7480 of 2008 which too was dismissed on 5th of July, 2010 holding that till the cancellation order of caste certificate issued by the District Magistrate, Muzaffarpur West, he is not entitled to the relief;

(vi) thus so far as the termination order of the petitioner is concerned, it too attained finality;

(vii) the Circle Officer, Saraiya



despite the cancellation of certificate issued by the District Magistrate, Muzaffarpur in 1998, and without any direction from the Superior Authority/D.M., Muzaffarpur chose to issue a fresh caste certificate to the petitioner herein showing him to be member of 'Kharwar' caste under ST category thus exceeding his jurisdiction;

(viii) when the Block Development Officer, Saraiya reported in 1998 that there is not a single Scheduled Tribe person in the said area how the Circle Officer, issued the said certificate holding him as belonging to 'Kharwar' caste living in same area is a matter to be inquired with;

(xi) no chit of paper has been annexed with the writ petition to show that the respondent-authorities ever held enquiry on the status of the caste of the petitioner and declared him to be a member of 'Kharwar' under ST category. Thus the claim put forward by the petitioner that since he has been issued a fresh caste certificate by the respondent-authority, he is liable to be reinstated is without any basis.

26. 'The Tribunal' was fully justified in rejecting the claim of the petitioner vide its reasoned order



dated 23.10.2019 in O.A. No. 050/00066/2016 with M.A. No. 050/00036/16.

27. We do not find any error in the aforesaid order and judgement dated 23.10.2019 passed by the Tribunal in O.A. No. 050/00066/2016 with M.A. No. 050/00036/16.

28. The writ petition preferred by the petitioner herein fails and is accordingly dismissed.

29. A copy of this order be sent to the District Magistrate, Muzaffarpur for his perusal and necessary action.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	29.07.2022
Transmission Date	

