

22.03.2024
Item No.3
Court No.5
Saswata

W.P.A. 15655 of 2007
with
CAN 1 of 2015 (Old CAN 7387 of 2015)
CAN 2 of 2015 (Old CAN 7386 of 2015)

Kuldip Singh
-vs-
Commandant, CISF Unit, Haldia & Ors.

Mr. K.B.S. Mahapatra
....For the petitioner

Mr. Tarun Jyoti Tewari
Ms. Kausiki Bose
...For the respondent nos. 1, 3 and 5

In re : CAN 1 of 2015 (Old CAN 7387 of 2015)

1. This is an application, *inter alia*, praying for condonation of delay in filing the application for recall of the order dated 9th June, 2015 dismissing the writ petition for default.
2. Heard the learned advocates appearing for the respective parties and considered the materials on record.
3. The explanation offered by the petitioner appears to be sufficient. As such, the delay in filing the application for recall being CAN 7386 of 2015 is condoned.
4. CAN 1 of 2015 (Old CAN 7387 of 2015) is accordingly disposed of.

In re : CAN 2 of 2015 (Old CAN 7386 of 2015)

1. This is an application, *inter alia*, praying for recall of the order dated 9th June, 2015.

2. Heard the learned advocates appearing for the respective parties and considered the materials on record.
3. The petitioner has been able to sufficiently explain the reason for his non-appearance when the matter was dismissed for default on 9th June, 2015.
4. Having regard to the aforesaid, the order dated 9th June, 2015 is recalled and the writ application being WPA 15655 of 2007 is restored to its original file and number.
5. CAN 2 of 2015 (Old CAN 7386 of 2015) is accordingly disposed of.

In re : WPA 15655 of 2007

1. The present writ petition has been filed, *inter alia*, challenging the charge sheet dated 4th October, 2005, the enquiry report dated 14th February, 2006, the final order dated 18th March, 2006, and the order of the Appellate Authority dated 24th May, 2006.
2. The petitioner claims to be a member of the Scheduled Caste from Kahar Community and a resident of the area of Burnpur. According to the petitioner, being desirous of getting employment with the respondent no. 3, he had duly applied by filing requisite form and had submitted the same to the respondent no. 3 on 19th August, 1997. The petitioner had obtained caste certificate showing

that he was from a Scheduled Caste community. Copy of such caste certificate had also been annexed to the writ application.

3. According to the petitioner, the said caste certificate was issued 11 years prior to the petitioner applying for employment with the respondent no. 3. The petitioner was taken in employment of the respondent no. 3 in General Category and not as a Scheduled Caste candidate. Subsequently, however, a charge sheet dated 4th October, 2005 was issued. The petitioner replied to the same by denying all material allegations. An enquiry officer was appointed to enquire into the charges. The said enquiry officer had later submitted a report. According to the petitioner, he had duly made a representation. Unfortunately, on the basis of the enquiry report and the charges against the petitioner having been proved, the petitioner was inflicted with punishment in the form of dismissal from service vide order dated 18th March, 2006.
4. Challenging the aforesaid order, the petitioner had preferred an appeal before the Appellate Authority. By order dated 24th May, 2006, the Appellate Authority without interfering with the order passed by the Disciplinary Authority, was pleased to dismiss the said appeal by upholding the charges against the petitioner. The petitioner since then,

had unsuccessfully challenged the said order by filing a revisional application. Having failed to secure any favourable order in his favour, the present writ petition has been filed.

5. Mr. Mahapatra, learned advocate appearing for the petitioner, submits that the petitioner was appointed in General Category and as such it was immaterial as to whether any caste certificate submitted by the petitioner ultimately turned out to be fake.
6. Since, despite direction passed by this Court, the respondents did not file any affidavit-in-opposition, this Court by order dated 21st December, 2023 had directed the respondents to produce the records of the case.
7. Today, at the time of hearing, Mr. Tewari, learned advocate appearing for the respondent nos. 1, 3 and 5, submits that the petitioner had all along relied on a caste certificate. The requisite application made by the petitioner seeking employment, as also the response to the charge sheet, would demonstrate that the petitioner had filled up an attestation form and a questionnaire. The same reflects that the petitioner had claimed to be a member of the Scheduled Caste community. According to Mr. Tewari, when the employment was offered to the petitioner vide letter dated 12th

August, 1997, the petitioner was required to produce original certificate in case he belonged to the Scheduled Caste community.

8. The records of the case including the service book of the petitioner which has been produced would demonstrate the petitioner belongs to a Scheduled Caste community. Having regard to the aforesaid, I find it difficult to accept the contention of Mr. Majumder that the petitioner was appointed in the General Category. Admittedly, in this case it is noticed that a charge sheet has been issued against the petitioner. To morefully appreciate the same, the articles of charge are extracted hereinbelow:-

“ Articles of Charge

That CISF No. 971540237 HC(Dvr) Kuldip Singh of CISF Unit HDC Haldia was appointed in CISF on 31-08-1997(AN) as a direct HC(Dvr) under SC category. During appointment HC/Dvr Kuldip Singh S/o Sarjit Singh of Burnpur, Dist-Burwan (WB) had produced Scheduled Caste certificate No. 498/86 dated 12-07-1986 issued by the Sub-Divisional Officer, Asansol, Dist: Burdwan (WB) and declared himself to be “SC”category in all the initial documents viz., Questionnaire and Attestation/verification form. As per standing instructions of the higher formations, copy of Scheduled Caste Certificate available in the service documents of HC/Dvr Kuldip Singh was sent to the issuing authority for verification. The issuing authority has intimated vide memo No. 548/Gen Dated 01-07-2005 that no such certificate was issued by them and the caste certificate bearing No. 498/86 dated 12.07.86 is a fake one. Thus No. 971540237 Kuldip Singh had managed a fake Scheduled Caste Certificate and joined CISF by producing this false Scheduled Caste certificate. This amounts to gross misconduct

and an act unbecoming a disciplined member of an Armed Force of the Union like CISF. Hence the charge.”

9. Following the aforesaid, a regular enquiry was conducted against the petitioner. After holding the enquiry, the enquiry officer had filed a report which was also forwarded to the petitioner for his response. As would appear from the same, the charges leveled against the petitioner in course of the enquiry stood proved.

10. It would appear from the enquiry report that the enquiry officer upon going through the statements, documents and evidences, had observed that the Scheduled Caste certificate produced by the petitioner was sent to the issuing authority for verification. The issuing authority had intimated that no such certificate was issued by them and the caste certificate bearing no. 498/86 dated 12th July, 1986 was a fake one. In course of enquiry, it was also found that the petitioner had himself declared that he belonged Scheduled Caste community in the attestation form and the questionnaire. Accordingly, it was held that the articles of charge against the petitioner stood proved.

11. On the basis of the aforesaid, the Commandant CISF Unit NAPS, Narora taking into account all aspects of the matter and agreeing with the

findings of the enquiry officer having held the petitioner guilty of the charges, in exercise of powers conferred under Rule 32 read in conjunction with Schedule-I and Rule 34(i) of the CISF Rules, 2001, imposed a penalty dismissing the petitioner from service with immediate effect. Although, the petitioner had preferred an appeal, the Appellate Authority did not interfere with the findings of the enquiry officer and by order dated 24th May, 2006 having not found any mitigating circumstances to interfere with the order of punishment dated 18th May, 2006 passed by the Disciplinary Authority being the Commandant, dismissed the said appeal. The revisional application filed by the petitioner also met with the same fate.

12. Having heard the learned advocates appearing for the respective parties and considering the materials on record, I am of the view that in the facts and circumstances as noted hereinabove, no case for interference has been made out by the petitioner. Admittedly, the charges leveled against the petitioner had been proved. The petitioner has claimed himself not only belonging to a Scheduled Caste community but had also, in more than one document, declared himself as such. The certificate

- relied on by the petitioner was also found to be fake. The said fact was proved in course of enquiry.
13. It is not the petitioner's case that he had been denied opportunity of hearing or there has been violation of principles of natural justice.
14. Mr. Mahapatra has not been able to identify any irregularity in procedure committed by the enquiry officer. The only defence set up by Mr. Mahapatra that the petitioner was appointed under general category also could not be sustained as the service records of the petitioner showed that he was from Schedule Cast community.
15. Having regard to the aforesaid, I do not find any reason to interfere with the order passed by the Disciplinary Authority, neither does the same appear to be perverse. The order passed by the Appellate as well as the revisional Authority also do not call for interference.
16. The writ petition being WPA 15655 of 2007 fails and is accordingly **dismissed**.
17. The records of the case as produced before this Court by the respondent nos. 1, 3 and 5 is hereby returned.
- Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Raja Basu Chowdhury, J.)