
(2011) 09 AP CK 0086

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11554 of 2010

P. Kumaraiah

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 30-09-2011

Acts Referred:

Citation : (2012) 1 ALT 139

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : J.M. Naidu, for the Appellant; J.P. Srikanth, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy

1. The petitioner joined the service of Central Industrial Security Force (CISF) in the year 1981 as a Washer-man. At the time of appointment, he submitted a caste certificate, dated 02-05-1977, issued by the then Police Patel of Kothakota village, to the effect that he belongs to "Chakali" community. About a quarter century thereafter, the respondents have undertaken verification of the genuinity of the certificate. It appears that the District Collector, Mahaboobnagar, informed the respondents that the competent authority to issue the caste certificate was not the Police Patel. On this basis, the petitioner was required to obtain a caste certificate, from the competent authorities. On an application submitted by the petitioner, the Mandal Revenue Officer, Kothakota village issued a certificate in the year 2004 to the effect that the petitioner belongs "Chakali BC - A community".

2. The Deputy Commandant, CISF Unit, Cherlapally, Hyderabad, the 2nd respondent herein, issued an Article of charge, dated 16-01-2010, to the petitioner alleging that he submitted an incorrect caste certificate at the time of recruitment. The charge was elaborated through statement of imputation. The petitioner challenges the Article of charge and other connected proceedings.

3. The petitioner contends that there is inconsistency between the Article of charge on the one hand and the statement of imputation on the other. He submits that in the statement of imputation there is a clear error apparent on the face of the record, inasmuch as the allegation of submitting false certificate is made in it, though no such averment was made in the Article of charge.

4. The respondents filed a counter-affidavit. According to them, the petitioner has been appointed against a post earmarked for SC category and that he made a representation to the effect that he belongs to SC category. It is stated that in the course of verification of the social status of the petitioner, it emerged that the certificate produced by him, at the time of appointment, was not issued by the prescribed authority and that at a subsequent stage, though the same social status of the petitioner was certified, the discrepancy and illegality was noticed.

5. Learned Counsel for the petitioner submits that the Article of charge, even if taken on its face value, does not constitute any basis for initiating disciplinary action against the petitioner. He contends that the social status of the petitioner was certified to be the same in the caste certificate, dated 02-05-1977, submitted when the petitioner joined the service, and in the one issued by the Mandal Revenue Officer in the year 2004. Learned Counsel submits that there is clear inconsistency in the version of the respondents and error apparent on the face of the record, since it is not explained as to how an individual, who produces a caste certificate to the effect that he belongs to a particular caste, can be appointed against a vacancy reserved in favour of a different category.

6. Learned Standing Counsel for the respondents, on the other hand, submits that the proceedings cannot be interdicted at this stage, since the charge framed against the petitioner was held proved. He submits that though the certification of the social status of the petitioner was same in the certificates that were issued in the year 1977 and 2004, the fact remains that the petitioner was appointed in a vacancy reserved for SCs though he does not belong to that category.

7. It was in the year 1981, that the petitioner was appointed as a Washer-man in the CISF, after considering his application, subjecting him to medical test etc. In support of his social status, he submitted a certificate, dated 02-05-1977, issued by the police patel, a village officer of Kothakota village of Mahabubnagar District.

8. It is, several years thereafter that the departments in the Government were re-organized creating Mandals etc. After lapse of more than two decades, it occurred to the Deputy Commandant, CISF Unit, Manugur, to verify the social status of the petitioner and accordingly, he addressed a letter, dated 12-03-2003, to the District Collector, Mahabubnagar. After calling for a report from the Revenue Divisional Officer, the District Collector informed the Deputy Commandant that the petitioner belongs to Chakali "Washer-man" caste as certified by the Police Patel in the year 1977. It was, however, mentioned that the certificate issued by the Police Patel was not correct and that the petitioner may be required to obtain caste certificate from the competent authority i.e. the

MRO. The petitioner accordingly, obtained a certificate from the MRO, which certified the same social status.

9. From the reply given by the District Collector, through his letter, dated 28-06-2004, one can easily discern that the Deputy Commandant wanted to know whether the claim of the petitioner that he belongs to Backward community, as certified in the caste certificate, was genuine at all. That stood answered in affirmative, when the District Collector stated that the petitioner belongs to the said community and the MRO issued a certificate to the same effect. Nowhere it was alleged that the petitioner claimed that he belongs to Schedule Caste.

10. Once, the verification against the petitioner did not leave anything to be proceeded, it appears that a new ground was invented to the effect that the petitioner was appointed against a vacancy reserved for SC candidates. Such an allegation could have been made, if only the petitioner produced a caste certificate to the effect that he belongs to SC category, the same was acted upon, and he was appointed against a vacancy reserved for SCs. No such allegations are made. In case, the petitioner was appointed against a vacancy reserved for SC category, notwithstanding the fact that he produced a certificate to the effect that he belongs to BC category, it is just ununderstandable as to how he can be held responsible. The record discloses that the petitioner did not made any claim, much less did he submit any form with his writing, and every ministerial act was done by the respondents themselves.

11. Lack of consistency or clarity on the part of the respondents is evident from the nature of answers given by them, for the request made by the petitioner to supply certain documents. The allegation against the petitioner that he claimed the status of an SC candidate could have been substantiated, if only he made a specific representation in that regard, particularly, through an application. The petitioner submitted a letter, dated 02-03-2010, with a request to furnish the following documents / information:

- (a) Application submitted by me at the time of appointment.
- (b) Confirmation verification Report.
- (c) Whether I received any benefits under SC quota and its particulars.
 - (a) For washer man no quota is necessary
 - (b) Notification copy in which I was selected and appointed.

12. Answers to these questions read as under:

- (a) Not a listed document. However, he may be informed that no such application is available in his service records. More over, at that time there was a practice of recruitment rally that too as per the vacancies of the concerned CISF Unit. Hence applications from the candidate were not called for. Hence, could not be provided.

(b) Not clear. Which confirmation verification report? Hence, may be got cleared from the charged official and take necessary action as per the Discipline Manual-Role of Enquiry Officer, Do's/Don'ts of E.O. No such document exists.

(c) He has been recruited and got appointed under "SC" quota.

(d) It is not a document rather his submission.

(e) Not relevant to the charge. However a copy of offer of appointment letter bearing Commandant, CISF Unit BSP Bhilai letter No.E-32023/77/Est/5584 dated 03.08.1981 is enclosed to hand over to the charged official under proper receipt.

13. If there did not exist any notification, nor did the petitioner submit any application, it was understandable as to how the respondents have drawn inference that the petitioner made a representation to the effect that he belongs to SC community. Even according to the respondents, the appointment was made in the course of a "Recruitment Rally". They are not clear about the existence of any SC reservation for such post. It appears that there did not exist any notification indicating reservation of the post in favour of different categories. It is with this kind of information available with them that the respondents want to proceed against the petitioner. The whole exercise is untenable and lacks bona fides apart from suffering from the vice of error apparent on the face of record. It appears to have been accentuated dislike on the part of the officer, under whom the petitioner worked in the year 2003.

14. It is true that the disciplinary proceedings, once initiated, must be permitted to continue till the end result emerges. Where, however, the proceedings are found to be perverse, not supported by any evidence and are inconsistent, they are prone to be treated as a pretext to harass. The respondents did not keep in view, the basic tenet that disciplinary proceedings can be initiated in the context of social status, if only, the representation made at the time of recruitment by an individual has turned out to be false, in the subsequent verification. One is yet to come across a case, where the department chooses to proceed against an employee even after the subsequent enquiry reveals that the claim made by him as to social status at the time of recruitment is found to be correct. The post held by the petitioner is that of a Dhobi "Washer-man." He belongs to caste, known after that profession. He served the organization in the menial post for about three decades. At the fag end of his service, he is being hounded with irrelevant, baseless and perverse proceedings. Such a course cannot be permitted, in a country governed by Rule of Law.

15. Hence, the Writ Petition is allowed and the impugned proceedings are set aside. There shall be no order as to costs.