

**(2018) 08 CHH CK 0239**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. 4519, 4898 Of 2007

Sudesh Paul

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

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**Date of Decision:** Aug. 23, 2018

**Hon'ble Judges:** Ajay Kumar Tripathi, CJ; Parth Prateem Sahu, J

**Bench:** Division Bench

**Advocate:** Y.S. Thakur

**Final Decision:** Dismissed

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### **Judgement**

Ajay Kumar Tripathi, CJ

1. Heard counsel for the parties.

2. Both the writ applications arise out of a common order dated 12.04.2007 passed in Original Applications No. 420 of 2006 and 421 of 2006 by the

Central Administrative Tribunal, Jabalpur Bench, Jabalpur; hereinafter referred to as 'the Tribunal'.

3. A decision dated 15/17.02.2006 was issued by the Divisional Railway Manager, South East Central Railways, Bilaspur; hereinafter referred to as

'the DRM,' terminating their services on the ground that the caste certificate based on which they had obtained employment was forged one. The

termination order became the cause of action for these Petitioners to approach the Tribunal, who on considering all the submissions and the evidences

brought before it, held the decision of the DRM terminating the services of these Petitioners to be valid.

4. Under the above circumstances, the writ application came to be filed assailing the decision of the Tribunal primarily on the ground that since the

decision of the DRM was unilateral without giving any opportunity of hearing merely on the basis of a report submitted by the Collector, Bilaspur, the Tribunal ought to have set aside the order of termination. The other argument is that the issue in relation to the caste was not even considered and gone into by the Tribunal and that itself created serious prejudice against the Petitioners.

5. So far as the first contention about the DRM having failed to give an opportunity of hearing to these Petitioners is concerned, this Court has to

observe that the issue of caste certificate was referred to by the DRM to the Collector concerned and enquiry was held at the level of the Tahsildar,

the Sub Divisional Officer (Revenue), where opportunity of hearing was given to the Petitioners and they were even allowed to tender evidence in

support of their case. The end result of all the deliberations is that it was reported by the District Collector to the DRM that the caste certificates

which have been used by the Petitioners for obtaining employment are forged since they were not issued by the concerned Tahsildar. If this is so, then

termination of service by the DRM cannot be said to be in violation of principles of natural justice because once the report of the Collector was

tendered to the DRM office with regard to the authenticity of the caste certificate and that report was sent after giving opportunity of hearing to the

Petitioners, therefore, a second opportunity in relation to the fact finding was not required because the DRM was not required to hold a fresh enquiry

into issuance of caste certificate by going through the rigmarole all over again. Therefore, the decision of the DRM terminating the services of the

Petitioners on the basis of the report tendered by the Collector cannot be said to be erroneous or violation of principles of natural justice.

6. So far as the issue of deliberation relating to the caste is concerned, the Tribunal seems to have gone by the findings which had emerged and since

the Tribunal does not have the jurisdiction to go and decide the issue of caste de novo, therefore, it rightly refrained from getting taken into by the

deliberation of such kind. This again cannot be said to be an erroneous decision of the Tribunal.

7. Bereft of all these, during the various hearing held in these writ applications from time to time, a significant order was passed on 06.12.2012 by the

Division Bench. The Division Bench had this to record:

In these two writ petitions (WPS Nos. 4898 and 4519 of 2007), the Petitioners got their job on the basis of a certificate of Scheduled Tribe (ST), said

to be obtained by them by the Collectorate, However, by the Collector, Bilaspur (the Collector) by letter dated 16/17.01.2006 reported that, no such

certificates were issued. However, there is nothing to show that the Petitioners do not or do belong to Gond Caste (ST). This question is relevant for

deciding the case.

The Petitioners may appear before the Collector within a period of one month and file an application to grant them fresh Caste Certificate. The

Collector may himself or send it to the Officer concerned, who is supposed to issue the Caste Certificate. He may grant the certificate after

conducting the enquiry. This certificate may be granted without being influenced by the earlier certificates said to be issued to the Petitioners; or the

earlier enquiry conducted; or the earlier orders relating to the question whether the Caste Certificates were issued to the Petitioners or not.

8. From a reading of the above order, it is evident that the Division Bench wanted to give a quietus or burial to the earlier controversies relating to the

caste status of these Petitioners and gave them a fresh lease of life to obtain a new caste certificate which could establish their bona fide or claim of

being a Scheduled Tribe belonging to 'Gond' community.

9. From the deliberations so made thereafter, it seems that the Petitioners are in no better situation than they were earlier. If they had succeeded in

obtaining a caste certificate afresh from the competent authorities, this Court could have reached out to them by setting aside the order of termination

and asking the Railways to take them back in service but it is not so.

10. Despite all the deliberations and exercise, we are back from where we began because the Petitioners are yet to succeed in establishing their claim

that they belong to the 'Gond' tribe or are Scheduled Tribe who are entitled to the benefits of reservation.

11. Learned counsel for the Petitioners thereafter strenuously argued trying to find loop-holes in the decision of the revenue authorities in refusing to

issue a fresh caste certificate or the review application which came to be filed by them before the Collector to reconsider their matter keeping in mind

certain guidelines issued by the State relating to land records not being available or being mandatory for deciding caste status prior to 1950.

12. The Petitioners again have failed to taste success and therefore, bereft of all the arguments and controversies, we still do not reach a conclusion

that the Petitioners belong to the 'Gond' community and can be given the benefit of reservation even in the year 2018.

13. Looking at the ambit of the challenge which was made in the writ applications originally which was to assail the order of the Tribunal, this Court

will not expand the ambit of the writ applications to go into the issue of non-grant of caste certificate to the Petitioners by the revenue authorities after

the Division Bench gave them an opportunity or chance vide order dated 06.12.2012.

14. The writ applications therefore are dismissed. Dismissal of the writ application however will not come in the way of the Petitioners carrying on

their legal battle with regard to obtaining a caste certificate or an identity which can give them the benefit of caste and reservation and be back in

employment.