

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.3783 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

At the request of both Sri C.Srinivasa Baba, learned counsel for the petitioner and Sri V.Ravichandran, learned counsel for the fourth respondent, the Writ Petition is being disposed of at the stage of admission.

The petitioner herein is the applicant in the O.A. She invoked the jurisdiction of the Tribunal questioning the action of the respondents in including the name of the fourth respondent in the panel of

Sub-Registrars Grade-II, against the roster point 58-ST (W), in terms of G.O.Ms.No.2, Social Welfare (SW.ROR1) Department, dated 09.01.2004. The case of the petitioner herein before the Tribunal was that the said roster point was earmarked for ST (W) and the fourth respondent, who was an S.T.(Male), could not have been empanelled for the said post. By its order dated 06.03.2014, the Tribunal suspended the proceedings dated 05.03.2014, whereby the fourth respondent was empanelled, and directed that the case of the petitioner be considered for promotion to the post of Sub-Registrar Grade-II. Thereafter, on a vacate stay petition being filed by the fourth respondent herein, the Tribunal vacated the earlier interim order as also the proceedings dated 04.07.2014 issued by the respondents complying with the earlier interim order of the Tribunal dated 06.03.2014. The Tribunal observed that, while the fourth respondent was at Sl.No.15 having been promoted to the cadre of Senior Assistant on 13.07.2009, the petitioner was at Sl.No.41 having been promoted to the cadre of Senior Assistant only on 09.10.2010; 6% reservation for STs, in the cadre strength of 43 posts of Sub-Registrars Grade-II, comes to 3; as reservation in favour of women is 33 1/3% thereof, only one post is required to be filled up with ST Women; Smt.Parvathi was already appointed as Sub-Registrar Grade-II against 33 1/3% posts reserved for women; once adequacy is achieved, reservation in promotion comes to an end; and, as Smt.Parvathi belonging to the ST (Woman) category was already promoted, inclusion of the name of the fourth respondent in the

panel was justified.

Both the petitioner and the fourth respondent belong to the Scheduled Tribes. While the petitioner is a ST Woman, the fourth respondent is not. It is also not in dispute that, as against the cadre strength of 43 posts of Sub-Registrars Grade-II in Zone-I, only three posts are required to be reserved for ST candidates; and Smt.Parvathi, who belongs to Scheduled Tribe (W) category was promoted as early as in the year 1998.

Sri C.Srinivasa Baba, learned counsel for the petitioner, would contend that Smt.Parvathi could not have been promoted as Sub-Registrar Grade-II in Zone-I in the year 1998, against a post reserved for ST (Woman) category, as reservation in promotion was introduced four years thereafter on 14.02.2003; Smt.Parvathi could only have been promoted under the open category, though she belonged to the Schedule Tribe; a new roster cycle would operate only from 14.02.2003 when reservation in promotion was introduced; and one post of ST (Woman) is still available, wherein the petitioner should have been appointed as the Sub-Registrar Grade-II.

On the other hand Sri V.Ravichandran, learned counsel for the fourth respondent, would refer to Rule 22-A(4) of the Andhra Pradesh State and Subordinate Service Rules, and Rule 22(1)(C) thereof, in support of his submission that once there is adequacy in reservation for ST (Woman), the roster point reserved for ST (Woman) cannot operate thereafter; roster point No.58, earmarked for ST (Woman), cannot operate as Smt.Parvathi has already been appointed, as Sub-Registrar Grade-II, under the ST (Woman) category; both the petitioner and the fourth respondent belong to the ST category; and the fourth respondent, being senior to the petitioner, is entitled to be appointed to a post reserved for the Scheduled Tribes.

The Tribunal, both while granting the interim order and while vacating it, did not examine whether promotion of Smt.Parvathi as Sub-Registrar Grade-II was under ST (Woman) category or under the open category, for it is only if Smt.Parvathi had been promoted as ST (Woman), was it possible to hold that roster point No.58, whereby a S.T. (Woman) was required to be promoted to a post in the cadre of Sub-Registrar Grade-II, would not operate thereafter. The question whether a new roster cycle would come into operation from 14.02.2003,

when reservation in promotion was introduced, is again a matter which the Government is required to examine before taking a decision whether to stop operation of the roster cycle in so far as roster point No.58 is concerned.

The interim order passed by the Tribunal, and the subsequent order vacating the earlier interim order, were both passed without a counter affidavit being filed by the Government. While we were initially inclined to set aside the matter and direct the Tribunal to decide the O.A. itself at the earliest, Sri V.Ravichandran, learned counsel for the fourth respondent, would point out that, doing so, would only result in the petitioner being illegally promoted as Sub-Registrar Grade-II.

We consider it appropriate, in such circumstances, to set aside both the promotion of the petitioner and the fourth respondent as Sub-Registrar Grade-II. Respondent Nos.1 to 3 shall, at the earliest and in any event not later than three (3) months from the date of receipt of a copy of this order, examine the matter and pass a reasoned order on the claims of both the petitioner and the fourth respondent for being promoted as

Sub-Registrar Grade-II. It is open both to the petitioner and the fourth respondent to put forth their claims in writing to the respondents within one (1) month from today.

The Writ Petition is, accordingly, disposed of. As both Sri C.Srinivasa Baba, learned counsel for the petitioner and Sri V.Ravichandran, learned counsel for the fourth respondent, state that, nothing survives in the O.A., the O.A. stands closed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

2nd March 2015

RRB

