

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No. 27140 OF 2015

ORDER: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This Writ Petition is directed against an order passed by the Central Administrative Tribunal, Hyderabad Bench in C.P.No. 22 of 2014 initiated by the petitioner herein complaining that the earlier order passed by the said Tribunal in O.A.No. 469 of 2011 has been purposefully and deliberately violated by the respondents in the Contempt Case.

It will be appropriate to notice that O.A.No. 469 of 2011 instituted by this very writ petitioner was disposed of by the Tribunal on 25.07.2013. The operative portion of the relief granted to the petitioner sets out that a direction was issued to the respondents to consider the case of the petitioner for the post of Postman in the next available vacancy under promotion quota in case the vacancy that arises is of the year in which the applicant was within age and in case the vacancy is of such year as consumed by any junior of the applicant.

The case of the petitioner herein is that the Superintendent of Post Offices, Nellore Division, Nellore has notified on 24.01.2011 several vacancies of Postman that have arisen for being filled up in accordance with the recruitment rules. For the year 2009, a total of four vacancies have been shown to have arisen. Out of them, two vacancies are meant for open competition, while one vacancy each is meant for Scheduled Castes and Scheduled Tribes candidates. Out of these four vacancies, one vacancy meant for open competition candidate and one vacancy meant for OBC candidate is set apart for 25% seniority quota, thus, implying that the vacancies are sought to be filled in, in accordance with the quota prescribed under the rules amongst various sources. The Grameena Dak Sevaks to become

eligible, the necessary qualifications are also specified, including the one relating to the age limit. It was spelt out therein that the age limit is prescribed as 50 years and the same is also relaxable by five years for Scheduled Castes and Scheduled Tribes category candidates and three years for OBC candidates as of 01.07.2011, i.e. the year in which the examination was to be held. According to the petitioner herein, his date of birth has been set out in his representation, which is placed at page 34 of the paper book, as 01.07.1957. Going by the said date of birth, the petitioner is found to be 54-year-old as of 01.07.2011, whereas it is the claim of the petitioner that he belongs to OBC category. Without going into the controversy as to whether for competing against open competition vacancy, the candidates belonging to Scheduled Castes, Scheduled Tribes and OBC can also seek relaxation of norm with regard to the upper age limit, even if the relaxation of three years is rendered extendable in case of the petitioner herein, the upper age limit should not have crossed 53 years, because three years is the length of relaxation allowable for OBC candidates. In view of the fact that the petitioner was 54-year-old as of 01.07.2011, the year in which the written test for the selections was sought to be conducted, the candidature of the petitioner herein was not considered. We do not find that the action of the respondents, in any manner, amounts to willful, wanton or deliberate violation of the directions issued by the Central Administrative Tribunal while deciding O.A.No. 469 of 2011 on 25.07.2013. We therefore, do not find any infirmity, either legal or otherwise, in the order passed by the Tribunal declining to entertain the contempt of Court proceedings initiated before it.

In that view of the matter, we do not find any justifiable ground for admitting this Writ Petition and accordingly, it is dismissed, at the admission stage. No costs.

It is needless for us to observe that dismissal of this Writ Petition or for that matter, dismissal of the contempt of Court action initiated by

the petitioner before the Central Administrative Tribunal should not normally come in his way of initiating appropriate proceedings for securing legal remedy.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

28th August 2015

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