

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT JUSTICE ANIS

WRIT PETITION No. 23982 of 2015

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ORDER: (*Per VRS,J*)

The petitioner, who appeared for EAMSET-2015 (Agriculture & Medicine) conducted by the 4th respondent-University, has come up with the above writ petition seeking a Mandamus to declare the action of the respondents in not considering her case under the quota reserved for Children of Armed Personnel.

2. Heard Mr. B. Shiva Kumar, learned counsel for the petitioner, and Mr. Taddi Nageswara Rao, learned standing counsel for

NTR University of Health Sciences, appearing for the 4th respondent.

3. The Instructions issued for EAMSET-2015 contained a stipulation that 2% of the seats will be reserved for Children of Armed Personnel. The relevant portion of the Instructions reads as follows:

"2% for the children of Armed Personnel i.e., Ex-Servicemen, Defence Personnel including the children of

Border Security Force (BSF) and the Central Reserve Police Force (CRPF) residing in Andhra Pradesh for a minimum period of 5 years.”

4. The petitioner's father is working as a Head Constable in the Central Industrial Security Force (CISF). Therefore, the grievance of the petitioner is that when the persons working in Border Security Force (BSF), Central Reserve Police Force (CRPF), Indo Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB) are considered under the said quota, as armed personnel, it is not fair on the part of the respondents to treat the persons working in CISF alone in a different manner. According to the petitioner, the Office Memorandum bearing No.I-45020/2/2011-Pers-II, dated 18.03.2011, issued by the Ministry of Home Affairs, Government of India, makes it clear that the Government had decided to adopt a uniform nomenclature of Central Armed Police Force (CAPF), while referring to BSF, CRPF, CISF, ITBP and SSB. The said Office Memorandum was reiterated by the Deputy Inspector General of CISF, by a Memorandum bearing No.E-42099/1/Misc/I&P/05-598, dated 03.05.2011. Following the above clarifications, the Directorate of CISF also informed the 4th respondent-

University that CISF has to be treated as one of the CAPFs. Therefore, the petitioner claims that the respondents committed a mistake in not extending the benefit of reservation of 2% for her in the matter of admission to medical courses.

5. We have carefully considered the above submissions.

6. The Instructions, which probably forms part of the prospectus for admission to engineering courses, which we have extracted above, show that they were issued on the basis of G.O.Ms.No.192, Education (E.C.2) Department, dated 26.08.1993. But, the said G.O. shows that the priorities indicated in the Instructions that we have extracted above, are applicable only for admission into engineering colleges. There has been no order similar to G.O.Ms.No.192, dated 26.08.1993, in so far as admission to medical courses is concerned.

7. In so far as admission to medical courses is concerned, the quota for children of Armed Personnel, is available only under G.O.Ms.No.136, Health, Medical and Family Welfare (E1) Department, dated 30.04.2007. Under this Government Order, the Government of Andhra Pradesh issued a set of rules known as “Andhra Pradesh

Un-aided Non-Minority Professional Institutions (Regulations of Admissions into Under Graduate Medical and Dental Professional Courses) Rules, 2007". In Clause (iv) of Sub-Rule (3) of Rule 9 of the aforesaid Rules, a reservation of 1% is carved out for the children of Ex-Servicemen and serving service personnel of the three wings of the Defence Services i.e., Army, Navy and Air Force. This Clause (iv) of Sub-Rule (3) of Rule 9 is extracted as follows:

"1% for the Children of Ex-Servicemen and serving service personnel of the three wings of the Defence Services i.e., Army, Navy and Air Force, subject to the condition that the Ex-servicemen etc., are residing for a minimum of five years in Andhra Pradesh, provided that if suitable candidates are not available equivalent to fulfill the above reservation, the condition of five year minimum period of residence shall not be insisted upon."

8. At the outset, as rightly contended by the learned counsel for the petitioner, G.O.Ms.No.136, dated 30.04.2007, contains a set of rules applicable to Un-aided Non-Minority Professional Institutions. In so far as admission to Un-aided Non-Minority Professional Institutions is concerned, the expression used under Rule 9 (3) (iv) is not "Central Armed Police Forces". The expression used is "Children of Ex-servicemen and serving service personnel of the three wings of the

Defence Services”.

9. But, there is no other Government Order, which entitles the children of either Ex-servicemen and serving service personnel of the three wings of the Defence Services or the children of Central Armed Police Forces, to the benefit of any reservation.

10. Therefore, the petitioner's case is neither covered by G.O.Ms.No.136, dated 30.04.2007 in relation to medical and dental professional courses or G.O.Ms.No.192, dated 26.08.1993, which applies only to admission to engineering courses. In such circumstances, it is not possible for the petitioner to seek the inclusion of CISF.

11. According to the petitioner, the respondents have extended the benefit of reservation of 1% or 2% to the children of Armed Personnel in the past and, that therefore, they should come out clean.

12. We do not know whether the respondents have granted the benefit of any reservation to the children of Central Armed Police Forces, such as, BSF, ITBP, etc. As we have pointed out in yet another decision, the reservation for children of Ex-servicemen, etc., the

reservation under the Sports quota or the reservation for NCC, are not borne out of any constitutional guarantee. These reservations are intended by State Governments, to suit their own conveniences. Therefore, a person claiming the benefit of such reservation, should establish that his case falls squarely within the policy of the State. If there is a policy, it should be borne out by a Government Order. If there is no policy, no candidate can rely upon the past practice adopted by the respondents. If the respondents have been adopting the practice of extending the benefit of some reservation, which is not based upon any policy, such a practice without any policy forming its foundation has to be frowned upon. Therefore, the reliance placed by the petitioner upon the past practice adopted by the respondents, without there being a foundation of policy, cannot be accepted.

13. Therefore, the Writ Petition fails and the same is dismissed. But, the 3rd respondent shall take note of the above observations and ensure that no reservation, which is not based upon any policy propounded by the Government, is adopted in practice.

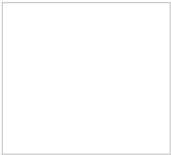
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No

order as to costs.

V. RAMASUBRAMANIAN, J

1st August, 2016
cbs

ANIS, J.



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