

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION Nos.5582 & 6197 of 2009

Between:

1. E. Bhuvaneshwari and another

PETITIONERS

And

1. Union of India, rep. by the Director General, Department of Posts,
Sansad Marg, New Delhi, and others.

RESPONSENTS



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION Nos.5582 & 6197 of 2009

COMMON ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Both these writ petitions arise out of a common order passed by the Central Administrative Tribunal, dismissing the Original Application filed by the petitioners herein and allowing the Original Application filed by the 5th respondent herein.

2. Heard Mr. Siva, learned counsel for the petitioners, Ms. Anjali Agarwal, learned counsel appearing for the Department of Postal and Telegraphs and Mr. M. Venkanna, learned counsel appearing for the 5th respondent herein.

3. By a notification dated 29.10.2007 the Superintendent of Post Offices, Tirupati, invited applications for appointment to the post of Grameena Dak Sevak Branch Postmaster. The selection was for one post of Branch Postmaster and the said post was reserved for Scheduled Caste. However, the notification imposed certain conditions as well as obligations. The controversy raised by the petitioners herein revolve around paragraphs 2 and 3 of the notification, and hence we extract the same as follows:

- 2 (a) The vacancy is reserved for SC category
- (b) If there are no three effective applications from the above 'a' category it will be offered to ST category.
- (c) If there are no three effective applications from the above 'a' and 'b' categories, it will be offered to 'OBC' category.
- (d) If there are no three effective applications from the above 'a', 'b', 'c' categories, it will be offered to 'OCs'.
3. The last date for receipt of applications in the office of the undersigned is 28.11.2007 upto 16.00hrs.
 - (i) The sealed covers will be opened on 05.12.2007 at 15.00 hrs in the presence of the applicants. All the candidates should attend at the office of the Superintendent of Post Offices, Tirupati (upstairs of Tirupati Head post office) with

their original certificates for verification, failing which their applications will be rejected. No correspondence with the applicants will be entertained in their regard.”

4. It appears that the Superintendent of Post Offices received 10 applications for the said post. The applications were submitted in sealed covers. As indicated in the notification, the sealed covers were to be opened on 05.12.2007 at 3 p.m.

5. The admitted case of the parties on both sides is that only five out of ten candidates, who had sent sealed covers, presented themselves for certificate verification.

6. It was found that out of the ten applications received, four applications were from the Scheduled Caste persons. But out of those four persons belonging to Scheduled Caste, who had sent their applications in sealed covers, only two persons presented themselves. One of them, viz., the 5th respondent herein, got selected.

7. However, the petitioners herein filed an application in O.A.No.458 of 2008 on the file of the Central Administrative Tribunal claiming that if only two Scheduled Caste candidates presented themselves for certificate verification, then the vacancy should have gone to other candidates either ‘OBC’ or ‘OC’. Since the Department agreed with such a contention and did not issue appointment orders, the fifth respondent herein filed an independent application in O.A.No.525 of 2008.

8. Both the applications were taken up together by the Central Administrative Tribunal. By a common order dated 09.02.2009 the Tribunal dismissed the application of the present writ petitioners and allowed the application of the 5th respondent. Hence the present two writ petitions.

9. The main contention on which the petitioners assailed the order of the Tribunal is that if only two candidates presented themselves

for certificate verification on 05.12.2007, it would mean that there were only two valid applications. Therefore, paragraph No.2(b) would apply making the respondents liable to de-reserve the post for Scheduled Cast. But we do not agree with the said contention. The reservation intended for Scheduled Castes will fail only if there were no three applications. The reservation cannot fail merely because of the non-appearance of all the three for certificate verification.

10. The contention that under Paragraph 2(b) there must be an effective application and that an effective application would mean the presence of the applicant at the time of certificate verification cannot be accepted. A right guaranteed under the Constitution to a Scheduled Caste candidate, cannot be taken away by the failure of one of the three candidates to appear for certificate verification. The only contingency when such a candidate would lose his right to be considered for appointment is, if he fails to appear at the time of certificate verification.

11. To put it differently, the failure of one of the applicants cannot defeat either the constitutional goal of reservation or the right of the other candidates belonging to Scheduled Caste to be considered by the authorities. The Tribunal did justice and there are no grounds to interfere with the said discretion. Therefore, the writ petitions are dismissed.

12. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE U. DURGA PRASAD RAO

6th December, 2016
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
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Date: 06-12-2016

Js.