

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

+ Writ Petition No.14451 of 2005

% Date: 16-11-2017

Mehtre Baswaraj, S/o Beerappa, Aged about 42 years,
Unemployee, R/o Jogipet Andole, Medak District
... Petitioner

Vs.

\$ The Andhra Pradesh Public Service Commission,
Gruhakalpa, M.J. Road, Nampally, Hyderabad-01,
Rep. by its Secretary
... Respondent

! Counsel for Petitioner: Mr. P.Padma Rao

Counsel for Respondent: Mr. C.Srinivasa Baba,
Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.



HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No.14451 of 2005

Order: (per V.Ramasubramanian, J.)

Challenging an order of the Andhra Pradesh Administrative Tribunal, Hyderabad, rejecting his claim for being considered as a candidate belonging to BC-B for selection to the post of Junior Lecturer in Economics, the petitioner has come up with the above writ petition.

2. Heard Mr. P.Padma Rao, learned counsel for the petitioner and Mr. C.Srinivasa Baba, learned Standing Counsel for the respondent/APPSC.

3. The petitioner is a native of Karnataka State. He claims to belong to Gonda community, which is notified as a Scheduled Tribe in the State of Karnataka. It is the claim of the petitioner that Gonda community in the State of Karnataka is classified as Kuruma community and included in the list of Backward Classes under Category-B in the State of Andhra Pradesh.

4. The petitioner applied for appointment to the post of Junior Lecturer in Economics, pursuant to a Notification issued by the Public Service Commission in the year 2001. A written examination was conducted on 25-8-2001, on the basis of the results of which he was declared to have qualified for interview on 26-9-2001.

5. However, by a Memo dated 06-9-2001, he was informed that he should not be treated as belonging to the Scheduled Tribe community, as claimed by him in his application and that he could be treated only as an Open Category candidate. Since an Open Category candidate should not have completed 34 years of age as on 01-7-2001 and the petitioner was little more than 38 years of age as on 01-7-2001, his candidature was rejected by the Memo dated 06-9-2001. Contending that he should have at least been treated as a candidate belonging to BC-B, for whom the upper age limit was 39 years, the petitioner filed an application in O.A.No.6663 of 2001 on the file of the A.P. Administrative Tribunal. But the Tribunal dismissed this application by an order dated 21-4-2005, challenging which the petitioner has come up with the above writ petition.

6. The main contention of the learned counsel for the petitioner is that Gonda community, in the State of Karnataka, is identified as Kuruma community in the State of Andhra Pradesh, that the same is classified as BC-B in the State of Andhra Pradesh and that the Tribunal omitted to consider this aspect. If the petitioner is considered as a candidate belonging to BC-B, he would have been considered as within the age limit for appointment. But by treating him as an Open Category candidate, the respondent committed an error, which the Tribunal did not appreciate in the right perspective.

7. We have carefully considered the above submissions.

8. At the outset, it should be pointed out that if one caste/community is treated as a Scheduled Tribe, in one State, he need not to be treated as belonging to a Scheduled Tribe in all other States. The term “Scheduled Tribe” is defined in the A.P. State and Subordinate Services Rules, to mean the caste/community mentioned in Part-B of Schedule-I to the Rules.

9. Moreover, the State of Andhra Pradesh enacted a special enactment known as “The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993”. The expression “community certificate” is defined in Section 2(b) of the Act to mean certificate issued by the competent authority. The expression “competent authority” is defined in Section 2(c) of the Act to mean any officer or authority authorised by the Government by notification to perform the functions of the competent authority under the Act, for such area or for such purposes as may be specified in the notification.

10. In exercise of the powers conferred by Section 20(1) of the said Act, the Government issued a set of rules known as “The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997. Rule 4(a) of the Rules prescribes that an application for the issue of a community

certificate shall be submitted in the prescribed Form. Rule 2(c) of the Rules defines the expression “Competent Authority” to mean the authority specified in column (2) of Annexure-I appended to the Rules.

11. In the table under Annexure-I, it is stated that all M.R.Os in the State not below the rank of Deputy Tahsildar are competent to issue community certificates to Backward Classes, within the territorial jurisdiction of a Mandal. Similarly, all M.R.Os not below the rank of Deputy Tahsildar within the territorial jurisdiction of a Mandal are competent to issue community certificates for Scheduled Castes.

12. Therefore, the petitioner could not have been considered even as a candidate belonging to the category of BC-B, when he did not hold a certificate issued by the competent authority, namely, the Mandal Revenue Officer of the concerned Mandal within the State of Andhra Pradesh. Merely because the petitioner holds a community certificate issued by the State of Karnataka, he cannot be treated automatically as a person belonging to a particular community, by virtue of equivalence of caste. The petitioner holds a community certificate that he belongs to Gonda community, classified as a Scheduled Tribe in the State of Karnataka. Unless the petitioner again obtains one more community certificate in the State of Andhra Pradesh, to the effect that he belongs to a community which is classified as

Backward Class or Scheduled Caste or Scheduled Tribe, he cannot be treated as belonging to the reserved categories.

13. Once it is clear that without a valid certificate issued by a local authority in terms of the local enactment, the petitioner cannot be treated as belonging to the reserved categories, it follows as a logical consequence that he could have been treated only as belonging to the Open Category. If treated as belonging to the Open Category, he was obviously over-aged. Therefore, the dismissal of his application by the Public Service Commission and the rejection of his original application by the Administrative Tribunal are perfectly in order.

14. The recruitment was of the year 2001. Now a period of 16 years has passed. We find no merits in the writ petition. Hence, it is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

16th November, 2017.
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AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No.14451 of 2005
(per VRS, J.)



16th November, 2017.
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