

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS**

WRIT PETITION NO.4097 OF 2017

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

The Andhra Pradesh Public Service Commission filed this writ petition aggrieved by the order dated 18.11.2016 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.7282 of 2013. The said O.A. was filed by the first respondent herein with the following prayer:

“Application filed under Section 19 of the Administrative Tribunals Act, 1985 praying this Tribunal to declare that the action of the Respondents in selecting an open category eligible merit candidate of 13th ranked in the place of Applicant under Reservation category of the BC-D candidate is denying Applicants legitimate opportunity which is in violation of Article 14, 15, 16 and 21 of Constitution of India illegal and unlawful apart from violation of the state Reservation policy in Public employment consequently direct the Respondent to appoint the Applicant to the Post he is eligibility under the Respondent Recruitment Notification 55/2011 Dated 28.12.2011 for the post of Hostel Welfare Officers of Grade-II after calling for all the relevant records of District selection committee in this regard.”

By the order under challenge, the Tribunal disposed of the O.A. directing the authorities to consider the case of the applicant, the first respondent herein, if he was the next candidate in the merit list amongst BC-D candidates subject to his being eligible and to pass appropriate orders within a time frame.

Sri C.Srinivasa Baba, learned counsel appearing for the petitioner, would submit that though the Tribunal placed reliance upon the judgment of the Supreme Court confirming the judgment of a Division Bench of this Court, an ad-hoc Rule framed under Article 309 of the Constitution as long back as on 04.12.1998 was not taken into consideration. In terms of the said ad-hoc Rule, the practice of maintaining a waiting list was done away with and fallout vacancies, if any, were directed to be notified during the next recruitment.

Sri S.Satyanarayana Rao, learned counsel for the first respondent, would also state that in terms of the claim of his client,

one Gollapally Srinivasa Rao, belonging to BC-D community, who had secured 216 marks, was not selected against a OC general vacancy based on his rank but was adjusted against a BC-D vacancy. Learned counsel would point out that the candidates who aspired under the OC category and secured 215 marks, 214 marks and 211 marks were selected against OC vacancies, which clearly shows that Gollapally Srinivasa Rao ought to have been accommodated against a OC category vacancy. He would further submit that this aspect of the matter was not even examined by the Tribunal.

On the above analysis, this Court is of the opinion that the Tribunal ought to have looked into all aspects of the matter instead of limiting its consideration to the case law cited before it.

The order under challenge is accordingly set aside and the matter is remitted to the Andhra Pradesh Administrative Tribunal, Hyderabad, for consideration afresh of O.A.No.7282 of 2013 on merits and in accordance with law. The Tribunal shall endeavour to complete this exercise expeditiously keeping in mind the fact that this is the second round.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

ANIS, J

15th FEBRUARY, 2017

PGS