

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) No.141 OF 2017

DATED : 27.07.2017

Between :

V.Sambaiah S/o.Sammaiah,
Aged about 41 yrs, Unemployee,
R/o.Karlapally, Govinda Rao Peta,
Caste (ST), Hall Ticket No.21721297,
Warangal District.

.. Petitioner/Applicant

And

The District Educational Officer,
Warangal District & others.

.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner and learned Government pleader for Services-II.

2. Petitioner responded to the post of Hindi Pandit Grade-II, in pursuant to DSC, 2006 notification dated 30.05.2006 under the category of Scheduled Tribe (Agency Area) in Warangal district. According to the petitioner he performed exceptionally well. However, he was not selected even though large number of vacancies were available. He was informed that the remaining vacancies were meant to be filled up by women candidates, but there were no eligible women candidates for appointment and those vacancies were abegging. By placing reliance on Rule 22-A of Andhra Pradesh State and Subordinate Service Rules, 1962 (for short 'the Rules'), petitioner contended that when women candidates belonging to scheduled tribe are not available, those vacancies ought to have been diverted to male candidates and ought to have been filled up by male candidates and not filling up the said vacancies in the said manner is erroneous and amounts to arbitrary exercise of power and authority and is illegal.

3. In the counter affidavit respondents state that the amendment relied on by the petitioner was to old Andhra Pradesh State and Subordinate Services Rules and that the old Rules were superceded and new set of Rules were notified in the year 1996-97. As the recruitment was made in the year 2006, it is governed by the new Rules, and under the new Rules, there is no provision of

automatic diversion of vacancies reserved for women candidates to be filled up by male candidates and separate procedure is prescribed under Rule 22-A (2) of the Rules.

4. The short issue for consideration in this writ petition is whether, in a recruitment if the Scheduled Tribe women candidates are not available, the vacancies reserved for Schedule Tribe women candidates should be diverted to be filled up by male candidates ?

5. Learned counsel for the petitioner placed reliance on the notification issued vide G.O.Ms.No.237 dated 28.05.1996 whereunder Rule 22-A (2) and the proviso along with the explanation was amended by way of substitution and a new provision was incorporated. In terms of this proviso, it mandated that, if sufficient number of women candidates were not available, in a recruitment the vacancies should be filled up by men.

6. However, it is noticed that this amendment was to the old Andhra Pradesh State and Subordinate Service Rules, 1962, which were in force, when the amendment was made. Soon thereafter, fresh set of 'Andhra Pradesh State and Subordinate Service Rules,' were made and notified and they were published in the Gazette on 27.01.1997. Thus, new set of Rules have come into force from that date, in supercession of 1962 Rules. The 1996 Rules do not envisage diversion of vacancies reserved for women candidates category by men automatically in the same recruitment. As per Rule 22 (g) of the Rules, if candidates are not available in the regular recruitment, immediately after the regular recruitment, limited recruitment should be made confined to candidates

belonging to women category to select and appoint qualified candidates to those vacancies. According to sub-rule (h) & (i) further procedure is indicated if candidates were not available in the limited recruitment. Thus, in the same recruitment if women candidates are not available, vacancies cannot be diverted and filled up by male candidates.

7. It is not in dispute that petitioner was not within the zone of selection to the extent of vacancies which were not reserved for women category and petitioner had a chance for consideration, only if vacancies either to reserved for women are diverted to be filled up by male candidates and as no such diversion was permissible in accordance with Rule 22 and 22-A of 1996 Rules, which Rules govern the recruitment made in the year 2006, the contention of the petitioner that he should have been selected in the unfilled vacancies reserved for women category merits no consideration.

8. The decision impugned is in tune with the provision contained in Rule 22. Therefore, I do not see any illegality in the said decision warranting interference of this Court and the Writ Petition deserves no consideration.

9. Accordingly, the Writ Petition (Tr) is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition (Tr) shall stand closed.

27th July, 2017
Rds

P.NAVEEN RAO,J