

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
and
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.19510 of 2017

ORDER:- (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner has challenged the order dated 14.11.2014 in O.A.No.1346 of 2014 and consequential order dated 29.12.2016 passed in Review MA No.3153 of 2014 in O.A.No.1346 of 2014 by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby his case for selection to the post of Excise Constable has been dismissed.

2. The petitioner applied to the post of Excise Constable through online pursuant to the Notification dated 08.10.2012 issued for selection of 82 posts in Srikakulam District. He participated in Inter-university competition in one of the recognized games/sports. The case of the petitioner is that he enclosed all the relevant certificates along with his application and he successfully completed Preliminary Efficiency Test (PET). It is stated that as per Clause No.6.8 of general instructions, the candidates have to bring their original certificates along with one set of attested copies for verification at the time of PET, failing which, they will not be allowed for the examination. In compliance of the said guidelines, the petitioner produced all his original certificates and after satisfying about their genuineness, he was allowed to participate in the PET and also in the written examination.

3. Learned counsel appearing on behalf of the petitioner submits that though the petitioner secured more marks than the 6th unofficial respondent, the official respondents without considering the certificates of his participation in Inter-university competition, provisionally selected the 6th respondent as Excise Constable under sports quota though she got less marks in the examination than the petitioner.

4. As per the case of the official respondents, the petitioner applied for the post of Excise Constable through online enclosing his educational qualifications, study certificates and caste certificate only, but he has not enclosed the sports/games certificate as per Rules. Even at the time of verification of the originals for allowing the candidates to participate in PET, the petitioner has submitted his original educational qualifications, study certificates and caste certificate only. It is further stated that as the petitioner belongs to BC-B Category, he was considered under that category and allowed to participate in the PET and written examination.

5. It is not in dispute that the petitioner secured more marks than the unofficial 6th respondent. But since there is only one reserved post under sports quota and the petitioner has not produced the certificate showing his participation in Inter-university games/sports and the 6th respondent has produced all the documents including sports certificate, she was selected in one post reserved for sports quota.

6. In the counter-affidavit filed by respondents before this Court, it is stated that the sports certificates produced by the 6th respondent were sent to the Managing Director, Sports Authority of Andhra Pradesh, Hyderabad, for authentication. As confirmation of genuineness of sports certificate is pending, though selection orders were issued to the 6th respondent, her appointments order was withheld.

7. During the course of arguments, it is clarified that the certificates produced by 6th respondent were found not genuine and her candidature has been cancelled. Thus, the vacancy for the post of Excise Constable under sports quota has not been filled up till date.

8. The case of the respondents is that the petitioner has filed all the relevant certificates, however, not filed the sports certificate through which he sought appointment. As per Sl.No.h of check list at page No.164 of the counter-affidavit, the petitioner has not produced the sports certificates. It is pertinent to note that the said check list is without any signature.

9 Along with the counter-affidavit, another check list of 6th respondent was filed at page No.172, wherein at Sl.No.h, it is mentioned that she filed the sports certificate and it was signed by the Verification Officer.

10. The counsel for the petitioner argued that the petitioner has applied in the category of sports quota and in his application at

column No.22 i.e., Do you claim meritorious sportsman quota, he specifically stated 'Yes' and it is also specifically mentioned in the said column that petitioner was represented by a University in the Inter-University Competition in one of the recognized games/sports. To this effect, in the certificate of the petitioner at page 24 of the petition, it is mentioned that the petitioner was represented by the University of Andhra in the Game Athletics (Men) in Inter-University Competition/Tournament held at M.G.University, Kottayam, Kerala. This certificate is dated 06.02.2009, whereas the notification for the post in question was issued on 08.10.2012.

11. Admittedly, the petitioner has produced all the academic certificates. However, he has not produced the sports certificate. The reason is that a candidate, who participated in athletics in intra District competition and applying in sports quota, as per Column 22 of the application, he would not produce the said certificate. It seems that as per the check list, it was unsigned by the Verification Officer. In the check list, it is deliberately not mentioned that the petitioner produced the sports certificate, whereas in the check list of 6th respondent, signature was there. Therefore, petitioner's candidature was not considered under sports quota, however, considered under BC-B community for written examination since he belongs to that community.

12. During hearing, it is submitted that the sports certificate of 6th respondent is not found genuine. Therefore, her appointment is withheld and not filled up with any other candidate. It is pertinent to

mention here that the 6th respondent has not challenged her withholding of candidature before the respondents or any Court. In the present petition, though 6th respondent was served with notice, appeared none on her behalf. It seems, she was aware of the fact that she was not eligible for the post in question under sports quota.

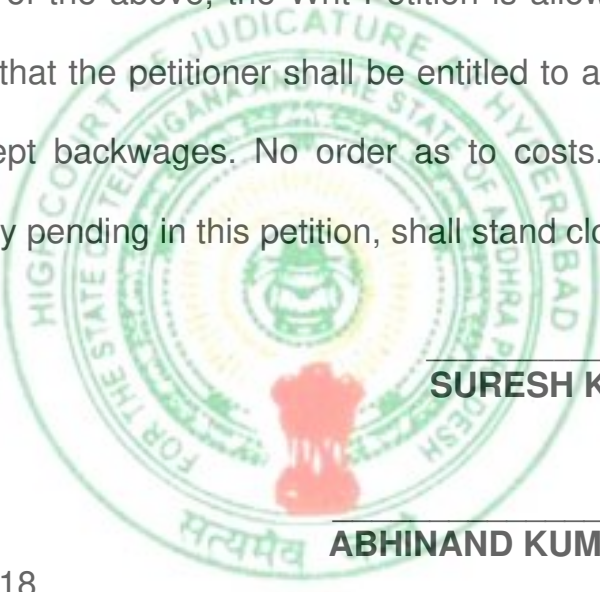
13. In view of the facts above, we are of the considered opinion that the respondents have deliberately mentioned in the check list that the petitioner has not produced the sports certificate, whereas he appeared in the written examination, PQT and PET. Before considering the case of the petitioner in BC-B category, there is no correspondence from the side of the respondents to the petitioner for not producing the sports certificate though he applied in the sports quota.

14. Moreover, as per paragraph No.3.7 of notification dated 08.10.2012, it is specifically mentioned that before filing the application form, the candidate should carefully examine his/her eligibility for the examination and if any incorrect/false/bogus or unconnected information is furnished, the candidate will be disqualified and he is also liable for criminal action. If the candidate applied in sports quota and not produced the sports certificate, his candidature is liable to be disqualified. However, in the present case, the petitioner was not disqualified and his case was considered under BC-B category. The 6th respondent, who was initially appointed under sports quota, her appointment was withheld as her

certificates are found not genuine. Therefore, the post in question is still vacant even today.

15. Since the petitioner was fully qualified as per the certificates produced by him under sports quota, we hereby direct the respondents to give appointment to the petitioner for the post in question under sports quota, within a period of four weeks from the date of receipt of a copy of this order, subject to verification of his sports certificate.

16. In view of the above, the Writ Petition is allowed. We hereby make it clear that the petitioner shall be entitled to all consequential benefits, except backwages. No order as to costs. Miscellaneous petitions, if any pending in this petition, shall stand closed.



SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

1st August, 2018
sj