

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 795 OF 2016**

SIONA DE SOUZA.

... Petitioner***Versus***STATE OF GOA THR. ITS CHIEF
SECRETARY, GOVERNMENT OF GOA AND 2
ORS.**... Respondents**Mr. S. D. Lotlikar, Senior Advocate with Mr. Prasheen Lotlikar and
Ms. S. Kenny, Advocates for the Petitioner.Mr. Devidas J. Pangam, Advocate General alongwith Ms. Neha
Kholkar, Additional Government Advocate for the Respondents No.
1 and 2.

Ms. S. Narvekar, Advocate for Respondent No. 3.

**Coram : M. S. SONAK &
NUTAN D. SARDESSAI, JJ.****Date : 4th October, 2019.*****Oral Order: (Per M. S. Sonak, J.)***Heard Mr. S. D. Lotlikar, learned Senior Advocate for
the Petitioner, Mr. Devidas J. Pangam, learned Advocate General
alongwith Ms. Neha Kholkar, learned Additional Government
Advocate for Respondents No.1 and 2 and Ms. S. Narvekar, learned
Counsel for Respondent No.3.

2. The Petitioner challenges the appointment of Respondent No. 3 to the post of Senior Assistant in General Administration Department, Government of Goa. The case of the Petitioner is that the Respondent No. 3, who is a candidate belonging to OBC category had never applied for appointment to the unreserved post in the general category. Despite this, the Respondent No.3 was accommodated in the general category thereby depriving the Petitioner of opportunity to be considered for appointment against the general category post. On this ground, the Petitioner submits that the appointment of Respondent No.3 is liable to be set aside and the candidature of the Petitioner be considered against the general category post.

3. Mr. Devidas Pangam, learned Advocate General submits that there is absolutely no illegality in accommodating the Respondent No.3 against the general category post because such accommodation is on the basis of the merit position secured by Respondent No.3. He submits that it is not correct that the Respondent No.3 had not applied for consideration of her candidature against the general category.

4. Upon consideration of the rival contentions and perusal of the material on record, we detect no illegality in the action of the Respondents. The appointment of Respondent No. 3 against the

general category post is on the basis of the merit position secured by the Respondent No.3. This merit position was higher than the merit position secured by the Petitioner. In such circumstances, it cannot be said that the Petitioner has been deprived of any right of being considered for appointment to the general category post. The claim of the Petitioner has also been considered but since the Respondent No.3 was found to have secured a better merit position, it is the Respondent No.3 who came to be appointed. Even otherwise, we find no illegality in reserved category candidate being accommodated against the general category post, which was, in the present case, secured on the basis of her merit in the general category.

5. For the aforesaid reasons, we dismiss this petition. There shall be no order as to costs.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

msr.