

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.44775 of 2017

ORDER

This writ petition is filed seeking the following relief:

“.....to issue writ or order more particularly one in the nature of writ of Mandamus by declaring the impugned Rc.No.197/Rett/Admn-3/2017 dated 18.11.2017 of the 1st respondent in rejecting the selection/appointment as Sub-Inspector of Police (Civil) under PE QUOTA by applying the horizontal reservation in the special categories i.e PE, CPP, MSP, NCC etc., though the same was held as bad under law by the then A.P Administrative Tribunal in O.A.No.3540 of 2014 and batch dated 19.4.2016 confirmed by this Honorable Court in W.P.Nos.26104 of 2016 and 28115 of 2016, W.P.No.26877 of 2017 and the Hon'ble Supreme Court of India in SLP (Civil) Diary No.32988 of 2017 dated 3.11.2017 which is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to accommodate the petitioner as SI of Police (Civil) under PE quota as per his merit by following the law laid down in the above cited OAs and writ petitions and send the petitioner for training along with the present batch and to pass such other orders as are necessary in the interest of justice.”

Heard Sri R.V.Mallikarjuna Rao, learned counsel appearing for the petitioner, and Sri M.V. Rama Rao, learned Standing Counsel appearing for the 1st respondent.

It is the case of the petitioner that he is working as Police Constable (Civil) in Zone-V and he is fully eligible and qualified to be appointed to the post of Sub Inspector of Police. While so, the respondents have issued a recruitment notification for filling up the post of Sub Inspector (Civil) on 3.11.2011. In the said notification, 1238 posts were notified and 246 posts were ear-marked for Zone-V and around 18 posts were ear-marked to the existing employees of the police department. In pursuance thereof, the petitioner has applied and fared well in the written examination. In spite of securing more marks, the case of the petitioner was not considered for being appointed as Sub Inspector of Police, as the respondents have followed defective method of treating the PE quota horizontally instead of vertically. While so, questioning the recruitment notification issued on 30.12.2008 and reservation in respect of PE quota and other categories, some of the police personnel have filed O.A.No.3540 of 2014 and batch before Andhra Pradesh Administrative Tribunal. The Tribunal *vide* order dated 19.04.2016 allowed said OAs directing that PE reservations should be applied vertically but not horizontally and the persons who have secured more merit among PE quota should be given appointment. Aggrieved by the said order, the respondents have carried the matter before

this Court by filing W.P.No.21604 of 2016. This Court *vide* order dated 8.7.2016 dismissed the said writ petition upholding the law laid down by the Tribunal in O.A.No.3540 of 2014 and batch. Challenging the same, the respondents have carried the matter to the Apex Court by filing SLP (Civil) Diary No.32988 of 2017. The Apex Court *vide* order dated 3.11.2017 dismissed the same. Earlier, the petitioner has also filed O.A.No.2348 of 2015 before the Tribunal and the Tribunal granted interim direction to the respondents to consider the case of the petitioner and in pursuance of the said interim order, the respondents have considered the case of the petitioner and rejected the same *vide* impugned proceedings dated 18.11.2017. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the principle of following PE quota vertically as adjudicated by the Tribunal and confirmed by the Apex Court, pertains to the notification of the year 2008, and the same principle needs to be applied to the petitioner also though he has responded to the notification of the year 2011. It is further contended that if the principle of applying PE quota vertically is adopted, the petitioner would have been selected and therefore, the impugned rejection order is liable to be set aside

and the respondents be directed to consider the case of the petitioner for appointment to the post of Sub-Inspector of Police with all consequential benefits.

Learned Standing Counsel appearing for the respondents contended that the principle of following PE quota vertically, as adjudicated by the Tribunal and confirmed by the Apex Court pertains to the notification of the year 2008. It is further contended that in the instant case, the petitioner has responded to the notification issued by the respondents on 3.11.2011 and as per the then procedure, the respondents have followed the PE reservations in horizontal method. At the relevant point of time, the respondents have followed the ratio laid down in *Rajesh Kumar Daria v. Rajasthan Public Service Commission and others*¹. It is further contended that the case of the petitioner would be considered if he submits a representation afresh.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that since the impugned rejection order dated 18.11.2017 was issued contrary to the law laid down by the Tribunal in O.A.No.3540 of 2014 and batch, dated 19.4.2016, which was confirmed in W.P.No.21604 of 2016, dated 8.7.2016, and further

¹ AIR 2007 SC 3127

confirmed by the Apex Court in SLP (C) Diary No.32816 of 2017, dated 3.11.2017, the same is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned rejection order dated 18.11.2017 is set aside. The respondents are directed to consider the case of the petitioner for appointment to the post of Sub Inspector of Police (Civil) by following the PE quota vertically with all consequential benefits. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

23rd October, 2019
rkk

JUSTICE ABHINAND KUMAR SHAVILI

