



Writ Petition No.6042 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.03.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

W.P.No.6042 of 2024

1.Union of India

Rep., by the Chief Postmaster General,
Tamil Nadu Circle, Anna Salai,
Chennai – 600 002.

2.The Senior Superintendent,
RMS 'T' Division,
Tiruchirappalli – 620 001.

... Petitioners

Vs

1.S.Kasinathan

2.The Registrar,
The Central Administrative Tribunal,
Chennai Bench, Chennai – 600 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, to call for the entire records of the impugned order dated 24.03.2023, passed in O.A.No.631 of 2016, by the Hon'ble Central Administrative Tribunal, Chennai Bench and quash the same.

For Petitioner :Mr.C.Kulanthaivel



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For Respondent : Mr.R.Malaichamy for R1

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ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ Petition had been filed challenging the order of the Central Administrative Tribunal wherein the Tribunal had set aside the order dated 23.02.2016, made by the second petitioner herein and directing the petitioners to convene the review DPC and consider the candidature of the first respondent in accordance with the Rules.

2. Heard Mr.C.Kulanthaivel, learned Standing Counsel appearing for the petitioners and Mr.R.Malachamy, learned counsel appearing for the first respondent.

3. The learned Standing counsel appearing for the petitioners would submit that vacancies to the post of Multi Tasking Staff were notified and out of the four vacancies, three were notified for 'Unreserved' category and one was notified for 'OBC' category. He would submit that the maximum age limit for the said post was only 50 years. The first



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respondent herein belonging to the SC category and at the time of notification, he was aged 54 years and hence, his candidature was not considered to the said post. However, the claim of the first respondent is that since he belonged to the SC category, age relaxation which was available to him should be extended and he should be allowed to participate in the said recruitment. The learned counsel would further submit that since there was no reserved vacancy for the SC category, the relaxation was not extended to him. He would submit that the relaxation for the SC category candidate could be considered, only if there is any vacancy that has to be filled up for reserved for the candidates belonging to the SC category. Since, there was no vacancy that had been earmarked for SC candidates, the first respondent would not be entitled to the relaxation of age as claimed by the first respondent. Hence, his request had been rejected and the same had been challenged by him. He would submit that the Tribunal had not considered this aspect.

4. He would further submit that on the date of passing of the order which was impugned before us, the first respondent had already su-



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perannuated and therefore, there is no question of reconstituting the DPC to review the case. Therefore, he would seek interference with the order passed by the Tribunal.

5. Countering his argument, Mr.R.Malaichamy, the learned counsel appearing for the first respondent would submit that it is a fallacy to contend that such age relaxation would be only available, if the post is reserved for a SC candidate. The said age relaxation is given by taking into account the backwardness in which the community had been put in. He would further submit that it is the fault on the part of the Department in failing to consider the candidature of the first respondent at that point of time. Had they considered the first respondent, the first respondent would have been successful and would have been superannuated as a Multi Tasking Staff, which would have given him more monetary benefits and therefore, there is no error in the order passed by the Tribunal.

6. We have considered the submissions made on either side and per-



used the materials placed on record.

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7.The *lis* involved in this case is as to whether the age relaxation that has been given to the particular category of candidate, would be available only, when there is a vacancy available for that category or the same is available even to an 'unreserved' category. A relaxation in age for a particular community is given by taking into consideration the backwardness and the disadvantageous position in which the community is put in. A person belonging to any community can compete in the open category/unreserved category on their own merits and ability. Therefore, the contention raised by the learned Standing counsel for the petitioners is without any merits whatsoever. As rightly held by the Tribunal, when a candidate of a particular category seeks to compete in the open category, then even if the notification does not notify any reserved post for that category, then such candidate would be entitled to age relaxation.

8.However, coming to the direction issued by the Tribunal to con-



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vene a review DPC, we are of the view that such a direction that too after the superannuation of the first respondent is without any basis.

9.Further, in such an event not only the first respondent would become eligible to apply, but also similarly placed persons like that of the first respondent would also be entitled to seek to make his candidature under the said notification. The Tribunal had wholly erred in directing the case of the first respondent only to be considered is bad, since having held that the candidate belonging to a particular category would be entitled to have the age relaxed even in the open category, Further, considering the fact that the notification was of the year 2015 and that the vacancies have been filled up as early as in the year 2016 and considering that almost nine years have passed, the candidate as that of the first respondent would have all superannuated and any direction issued to review and fill up such eligible candidates based upon the age relaxation would only disturb the candidates who had been already selected, who are not a party before us.



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10. For the aforesaid reasons, we are inclined to interfere with the direction issued by the Tribunal to convene the review DPC and to consider the candidature of the first respondent alone and in that context, the same are set aside. In other aspects, the order of the Tribunal is upheld.

11. In fine, the Writ Appeal is disposed of on the aforesaid terms. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.K.,J.) (K.B., J.)
15.03.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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