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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

....

Registration O.A. No. 122 of 1990

Smt. Prem Lata Mishra ... Applicant.

Versus

Union of India and others ... Respondents.

Hon'ble Mr. D.K. Agrawal, Member (J)

Hon'ble Mr. K. Chayya, Member (A)

(By Hon'ble Mr. D.K. Agrawal, J.M.)

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by Smt. Prem Lata Mishra, wife of Sri Gopal Narain Shukla, born on 26.1.1950, claiming the right of equality with the Scheduled Caste and Scheduled Tribe and seeks to challenge the special provision regarding upper age limit and number of chances given to Scheduled caste and Scheduled Tribe candidates for appearing in the Civil Services Examination held by Union Public Service Commission for 1990. It may be mentioned, at the outset, that the challenge in this application, filed on 14.2.1990 is with regard to the examination to be held in the year 1990, which have already been completed. It may also be mentioned that she had passed her B.A. examination in the year 1979 as stated orally at the Bar and the idea to avail a chance for the competitive examination seems to have occurred to her as late as in the year 1990. The learned counsel for the applicant also stated before us that she had not taken up any competitive examination earlier. Therefore, the circumstances in which this application has been filed are peculiar.

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2. There is no doubt that this Tribunal, which is the creation of Administrative Tribunals Act, 1985, has to act within the ambit of the Act. Our jurisdiction is confined in relation to recruitment and matters concerning recruitment to ~~any~~ All India service or to any civil service of the Union or a civil post under the Union or a post connected with Defence or in the Defence services being, in either case, a post filled by a civilian. We are not concerned with public interest litigation.

3. The grievance of the applicant, as expressed in para 13 and 17 of the Claim Petition is to the effect that Women belong to weaker section of Society and they are as such entitled to benefit of the provision of Article 16(4) of the Constitution of India. Therefore, the benefit of upper age limit and the number of chances given to those Scheduled Caste and Scheduled Tribe candidates should be extended to women also.

4. In our considered opinion, the petition is misconceived. The reason is that Article 15 and 16 of the Constitution of India which deal with the right of equality of citizens and prohibit discrimination on grounds of religion, race, caste, sex or place of birth, make an exception in favour of socially and educationally backward classes of citizens or Scheduled Castes and Scheduled Tribes. Article 15(4) lays down as follows:

"Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes."

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Article 16(4) lays down as follows:

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State."

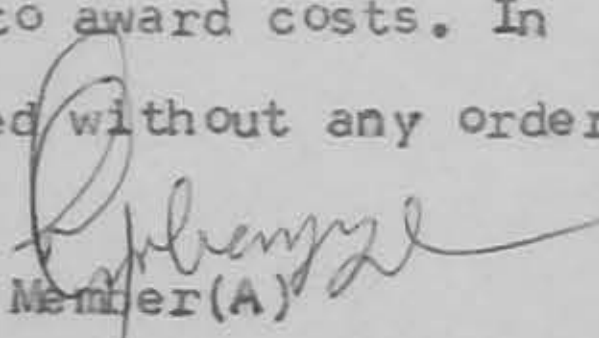
The State, thus, has been empowered to classify class of people as 'Backward' as are in the matter of backwardness comparable to the Scheduled Castes and Tribes. The Constitution does not provide the definition of a 'backward'. The determination, as to which class of people can be termed 'backward' is left to the 'State'. Therefore, it is not the jurisdiction of the Court to declare that women belong to 'backward' class. Notwithstanding the pronouncement that 'backward class' is not used as synonymous with backward class or backward community. It is the prerogative of the 'State' to determine or classify backward class of people on the ground of socially, educationally or economically weaker section of the Society. The extent of reservation or the benefit to be extended to such class of people is also primarily a matter for the State to decide, subject, of course, to judicial review on the ground that the reservation is so excessive that it renders guarantee of equality under Article 16 or Article 335 meaningless. In view of this, we have no hesitation to record a finding that the petition is misconceived.

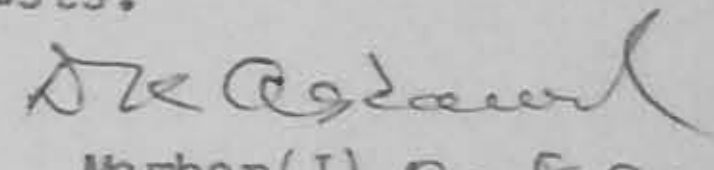
5. Before we part, we may observe that we are in doubt that this is a bonafide petition. Necessary facts have

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not been placed on record to carry conviction to us that the petitioner, apparently a housewife, in fact wanted to take Civil Services Competitive Examination for the year 1990, after 11 years of completion of her Education. We were inclined to award costs also while dismissing the petition but the opposite parties have practically gone unrepresented; in as much as undated power on behalf of Opposite Party-1 signed by one V.K. Cherion, Under Secretary, Department of Personnel and Training, executed in favour of Shri K.C. Sinha, Additional Standing Counsel, was filed. However, despite five of six opportunities neither reply was filed nor any assistance was rendered by the learned Addl. Standing Counsel in the disposal of the case. As such, we do not consider it proper to award costs. In the result, the petition is dismissed without any order as to costs.


Member(A)


Member(J) 20.8.91

Dated : 20th August, 1991.

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