

O.A. No. 40 of 2006

Order dated: 09.03.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mr. S.K. Patra, Ld. Addl. Standing  
Counsel for the Respondents.

2. This O.A. has been filed with the following  
relief:

"8(iii) ...to direct the Respondent No.1 to proceed ahead with the selection for the post of Field Assistant(G) as notified in A.R.C.(GENL/165/2002 dated 19.07.2002 and to issue appointment order/letter to the applicant who has applied for the said post pursuant to the said notification and submitted all necessary/required attestation, especial security questionnaire of personal particular required by the respondent no.1 as per Annexure-5 & 6 respectively."

3. The claim of the applicant is that as per the advertisement at Annexure-R/1 dated 19.07.2002, the applicant filed an application for selection to the post of Field Assistant(G) with the ARC, Directorate, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. However, after the written test and interview, no selection has been made and he was not given appointment and the reason appears that the applicant does

not belong to OBC community as he had applied to the reserved post for OBC community.

4. The case of the applicant is that he had produced a community certificate, along with other certificates, Annexure-A/3 issued by the Tehsildar concerned, endorsing that the applicant's community named as Kansari is recognized as a Socially and Educationally Backward Class (SEBC, in short) under the Govt. of Orissa, Department of Tribal Welfare as per certificate dated 29.01.1994. Hence, the applicant contends that the non-appointment of the applicant is irregular and illegal as the said community of Kansari is included in the list of SEBC and the same was also recognized as community belongs to OBC list of Orissa State.

5. On getting notice from this Tribunal, a counter statement has been filed for and on behalf of the Respondents and, at the outset, it is stated in the counter that as per Annexure-R/4 entire recruitment has been cancelled and hence all other contentions raised in the O.A. are not sustainable. It is also stated in the counter that as per the advertisement, Annexure-R/1, 9 posts of Field Assistant were called for to be filled up by way of written test and



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interview, which were divided into three groups, namely, General (Unreserved-5), OBC (Reserved-3) and SC (Reserved-1). If so, the very filing of the application by the applicant to the above post is not in accordance with the advertisement, as the applicant does not belong to OBC. However, it is stated finally in the counter that since the entire selection has been cancelled, the O.A. can be dismissed by this Tribunal.

6. On considering the case put forward by the applicant and the stand taken in the counter affidavit, it has to be seen that as per the advertisement, Annexure-R/1, only the candidates belong to OBC community are entitled to apply for the post. However, as the applicant does not belong to the OBC community on the basis of Annexure-A/3, community certificate issued by the Tehsildar, his candidature was also considered on the General category.

7. With the above background, we also perused the list of OBC community included in the list of Orissa, State, in which the community, called Kansari is not listed as an OBC community. At the same time, it appears that the community of the applicant may include in the list of SEBC community but that listing of community of the applicant is

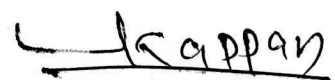


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only for the purpose of some other service and educational benefits of the State Govt. and that list cannot be utilized for getting any claim for OBC status. However, we have already found that the entire process of selection has been now cancelled, hence, the second question whether the non-appointment of the applicant is regular or not does not arise for our consideration, at this stage.

8. Taking into consideration all the facts mentioned above, we see the O.A. is devoid of any merit and stands dismissed. No order for costs.

  
MEMBER (A)

  
MEMBER (J)

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