

(28)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1079/94

Date of Order: 28-8-95

Between:

Smt. K. Kusuma Kumari.

... Applicant

and

1. The Govt. of India,  
rep. by the Secretary, Home,  
New Delhi.
2. The Director of Census Operation,  
A.P. Hyderabad.
3. The Deputy Director of Census Operation,  
A.P. Somajiguda, Hyderabad.

Respondents.

For the Applicant :- Mr. A. Sudershan Reddy, Advocate.

For the Respondents: Mr. N. V. Raghava Reddy,  
S/o./Add. CGSC

CORAM:

THE HON'BLE MR. JUSTICE V. NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE MR. RARANGARAJAN : MEMBER(ADMN)

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O.A.NO.1079/94.

JUDGMENT

Dt: 28.8.95

(AS PER HON'BLE SRI JUSTICE V.NEELADRI RAO, VICECHAIRMAN)

Heard Shri A.Sudarshan Reddy, learned counsel for applicant and Sri NV Raghava Reddy, learned SC for Respds

The applicant belonging to Backward class married

Shri Narendra, a native of Sholapur, Maharashtra State

It is stated that their marriage had taken place in 1982 and they had ~~no~~ ~~two~~ children.

3. The name of the applicant was also sponsored by the Employment Exchange in the quota reserved for ST in pursuance of the requisition issued by R-1 for the post of Data Entry Operator Grade-A reserved for ST. The applicant was selected and the order dated 17.6.1994 was issued appointing the applicant to the post of Data Entry Operator Grade-A. But when she reported for duty, she was informed that as some clarifications are required in regard to her social status, she was not permitted to join. Ultimately the applicant was informed that as per the guidelines in Circular No.35/1/72/RU(SCT-V), dated 2.5.1975, one can claim reservation in posts reserved for SC/ST on the basis of birth only and hence her appointment was cancelled, vide order dated 28.7.1994. The same is challenged in this OA.

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4. The facts are not in controversy. The only point for consideration is as to whether one who does not belong to SC/ST can claim reservation as per various G.Os whereby reservations are provided for SC/ST merely on marrying a SC/ST.

~~the Division Bench of Andhra Court held in~~  
1993(1) ALT 458 (Smt. D.Neelima v. A.P.Agricultural University), after considering Articles 15(4) and 16 of the Constitution of India that the G.O. of A.P.State Government had not conferred any right upon spouse of SC or ST if such spouse is not SC/ST by birth, to claim a seat reserved for SC/ST in a professional course.

6. It was urged for the respondents that it is for the Central Government to make a provision for reservation for SCs/STs in posts and as the relevant guidelines as per the circular dated 2.5.1975 make it clear that a spouse of SC/ST, cannot claim such reservation if he/she does not belong to SC/ST by birth and in the absence of any circular conferring the benefit of reservation on such a spouse, the applicant being a Backward class, cannot claim for consideration for a post reserved for ST merely on the ground that she married a ST.

7. But the learned counsel for the applicant referred to a judgment of Supreme Court in AIR 1972 SC 1840

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(N.E.Horo v. Jahan Ara) to contend that in case of marriage of a non ST to ST with the sanction of the elders of the Tribe, wife can claim social status of ST belonging to the husband. But it was a case where wife of a ST who was not ST by birth contested in the elections for the seat reserved for ST. Their Lordships of the Supreme Court held that in Parts 1 to 12 of the Schedule to the Constitution

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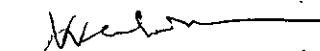
..... all tribes or Tribal community or parts of or groups within the Tribes or Tribal community who are to be deemed to be STs are specified and as the community claimed by the petitioner therein is also referred to one of the Tribal community in the said schedule, she had right to contest for the said seat reserved for ST community.

8. But the point for consideration in this case is as to whether reservation was made in regard to the Central Government services even for spouses of ST, if they are not ST by birth. The circular dated 4.2.1975 makes it clear that spouses of SC/ST who are not SC/ST by birth are not entitled for consideration in the posts reserved for SC/ST and one who is SC/ST by birth alone can claim it. Thus the applicant who is not ST by birth, cannot be considered for vacancy reserved for ST, even though she married ST.

contd....

9). Thus, there are no grounds to interfere with the order of the respondents wherein it was held that the applicant who is not a ST by birth is not entitled for consideration for the post reserved for ST.

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
(V. NEELADRI RAO)  
VICE CHAIRMAN

DATED: 28th August, 1995.  
Open court dictation.

  
Deputy Registrar (J) CC

vsn

To

1. The Secretary-Home, Govt. of India, New Delhi.
2. The Director of Census Operation,  
A.P. Hyderabad.
3. The Deputy Director of Census Operation,  
A.P. Somajiguda, Hyderabad.
4. One copy to Mr. A. Sudershan Reddy, Advocate, #  
1-9-312/6/2, Vidyanagar, Hyderabad-44.
5. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMIN)

DATED - 28/8/1995.

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

in  
OA. No. 1079/94

TA. No. (W.P. )

Admitted and Interim direction.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

No Spare Copy

