

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

W.P.NO.9532 OF 2017

ORAL ORDER (Per the Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed for the following relief:

For a writ, order or direction and more particularly one in the nature of Writ of Certiorari calling for the records pertaining to O.A.No.609 of 2017 dated 09.03.2017 on the file of Hon'ble Administrative Tribunal, Hyderabad and consequently to set aside the same and pass such other order or orders as this court may deem fit and proper in the circumstances of the case.

The 2nd respondent – State Level Police Recruitment Board issued notification dated 27.8.2016 for 494 posts of Stipendiary Cadet Trainee Police Constables (Communication) with post code No.25. The petitioner applied for the said posts, claiming reservation under B.C.-E, non-creamy layer category. The petitioner claims that he has produced all the relevant certificates, including the non-creamy layer certificate issued by the competent authority and qualified in physical measurement / physical efficiency test and also in the written test, but his name does not find place in the final merit list under B.C.- E non-creamy layer category. Aggrieved by the same, he filed O.A.No.609/2017 on the file of Andhra Pradesh Administrative Tribunal, Hyderabad. By interim order dated 09.03.2017 the Tribunal while ordering notice, directed that final selection in BC-E category shall be subject to final result in the original application. Challenging the interim order, the petitioner, who is the applicant before the Tribunal, filed the present writ petition.

The learned counsel for the petitioner submits that since the Tribunal has dismissed similar O.As., the fate of the petitioner before the Tribunal would be

same. Therefore, he seeks to dispose of the writ petition on merits, though it is filed against the interim order. The learned Government Pleader for Services (A.P.) did not oppose for the same.

With the consent of both the counsel, and in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India, we are inclined to dispose of the writ petition on merits of the claim of the writ petitioner.

The Chairman of the 2nd respondent – State Level Police Recruitment Board, filed counter affidavit and stated *inter alia* that the petitioner has not produced the non-creamy layer certificate and he has produced only four certificates viz., Secondary School Certificate, Board of Intermediate Education, Community, Nativity and date of birth certificate and CPP certificates, which were uploaded. The Superintendent of Police, Kurnool vide his e-mail dated 17.2.2017 informed the petitioner to submit non-creamy layer certificate, but he has not produced the same. While issuing the provisional selection list, it was informed that due to non-submission of non-creamy layer certificate, he could not get the provisional selection for the post of PC (Communications). It is further stated that due to non-submission of non-creamy layer certificate, the post has been filled up by eligible candidate viz., Shaik Nazeer Reg.No.3044457, who submitted non-creamy layer certificate along with community certificate and CPP certificate and secured 89 marks with 4429 rank. In addition, one more candidate Shaik Jaleel Ahmed, Reg. No.3016874, got 96 marks under CPP quota and he filed O.A.No.635/2017 on the file of Andhra Pradesh Administrative Tribunal and that there is only one vacancy under BC-E CPP quota for the post of PC (Communications) and, therefore the case of the petitioner cannot be considered

at this stage, as it would affect another candidate. Moreover, petitioner does not come in merit. With these averments, the writ petition is sought to be dismissed.

Despite the contradicting versions, even if we consider that the non-creamy layer certificate, as claimed by the petitioner, has been submitted by the petitioner in Annexure-5 at the time of PMT/PET, still he does not come under the merit, as there is above named candidate, who secured 96 marks and the petitioner secured only 90 marks. Moreover, the vacancy under BC-E non creamy layer category for the post of PC (Communications), has already been filled up.

For the foregoing reasons, we do find any merit in the claim of the petitioner and the writ petition is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.



SURESH KUMAR KAIT,J

DR. SHAMEEM AKTHER,J

DATE:29—06—2017

AVS