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(2018) 09 CHH CK 0305

In the Chhattisgarh High Court

Case No : Writ Appeal No. 395 Of 2017

Ku. Ramkumari Sahu — APPELLANT

Vs

State Of Chhattisgarh And Ors — RESPONDENT

Date of Decision : 20-09-2018

Acts Referred:

Citation : (2018) 09 CHH CK 0305

Hon'ble Judges : Ajay Kumar Tripathi, CJ;Parth Prateem Sahu, J

Bench : Division Bench

Advocate : Amrito Das, Y.S. Thakur

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. Heard counsel for the parties.

2. Writ application of the present appellant which was registered as W.P.(S) No.1283/2015 was heard alongwith many other writ applications. Since

writ application has been dismissed by the learned Single Judge vide his order dated 02.05.2017, she has preferred the present appeal.

3. Before the learned Single Judge claim of the appellant was that her name figured in the list of selected candidates and, therefore, she had a right to

be appointed. Non-appointment, therefore, violated her right for consideration.

4. While dealing with the case of the present appellant, the following findings have been recorded by the learned Single Judge in Paragraphs 24 to 28,

which reads as under -:

24. Case of the petitioner (Ku. Ramkumari Sahu) is that out of 563 posts of Sub Inspector, 79 posts were reserved for Other Backward Class (non-

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creamy layer) category. Thus, for OBC (Woman) category candidates 8 posts were reserved, which is 10% of 79 posts. When the results were

declared on 11-5-2013 the petitioner's name was not included and in her place male candidate, the respondent No.6, has been selected, therefore, the

petitioner is entitled for appointment as a OBC (Woman) category candidate.

25. It is the categorical stand of the State that the last candidate selected in the OBC (Woman) category has secured 535.253 marks whereas the

petitioner has secured 534.470 marks under the OBC (Woman) category candidate, therefore, the petitioner, being less meritorious, was not selected.

26. Petitioner's contention that male candidate has been selected in her place is absolutely misconceived and contrary to facts because Veena Sahu is

the last and 8 th candidate in the OBC (Woman) category, therefore, appointment of the respondent No.6 has not been made to accommodate a male

candidate as against the quota reserved for OBC (Woman) category candidate.

27. Despite this clear stand of the State in the return, the petitioner has not rejoined to controvert this merit position. By amendment petitioner has tried

to make out a new case on the pleadings that the respondent No.6 Vijay Kumar Kaiwartya has been selected from the merit list against the OBC

(Woman) category, however, as per the chart provided by the petitioner in para 3 of the rejoinder in respect of the merit position of OBC (Woman),

Veena Sahu was the 8 th candidate, therefore, the quota of OBC (Woman) having already exhausted, the subsequent pleading of the petitioner that

the respondent No.6 has been accommodated against the OBC (Woman) category quota is incorrect.

28. The petitioner being less meritorious than Veena Sahu or for that matter the respondent No.6, who has secured 588.035 marks, the present

petitioner has not made out any case for interferences.

5. We have examined the list from where it is evident that the appellant was one of the waitlisted candidates. It is from the waiting list that additional

names including the name of the present appellant was notified for such appointment, but mere notification or the name of the appellant figuring in the

said list would not create a right in her favour. The right may arise provided there were vacancies which was required to be filled up or any person

lessor in merit than the appellant would have been appointed by the respondents.

6. The facts are clear. There are only 8 vacancies reserved for Other Backward

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Classes (O.B.C) women category and the last person appointed in

that category had more marks than the present appellant.

7. We do not find any infirmity in the reason so given by the learned Single Judge for dismissing the writ application, which requires any rectification in

appeal.

8. The appeal has no merit. It is dismissed.

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