

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5105 OF 2017

(Arising out of S.L.P.(Civil) No.23692/2016)

Babita Kumari .. Appellant(s)

Versus

Union of India & Ors. .. Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties and perused the judgment and order dated 6th May, 2016 passed by the High Court of Himachal Pradesh. One post of 'Gram Dak Sewak Branch Postmaster', Bhaira, Rajgarh under Nahan HQ, Himachal Pradesh belonging to other Backward Caste Category fell vacant due to the death of its incumbent which was advertised not by way of publication in the Newspaper but otherwise. Giving due publicity the said post was filled up by a candidate belonging to general category other than the backward caste on the ground that no application was received from candidates belonging to other backward caste category against the said advertisement. The appellant who was appointed belongs to the General Category.

Her appointment was challenged before the Central Administrative Tribunal which set aside the appointment of the appellant on the ground that the post reserved for other backward category caste cannot be converted into General Category without waiting for three consecutive advertisements before filling it up from the general category candidates. The High Court has upheld the same. There is nothing on record to show that the post which was reserved for other backward caste was advertised for three consecutive years before treating it as a General Category. More than eight years have passed since the appointment of the appellant was made on the said post. As the post fell under the other backward caste category, the appellant could not have been appointed on the said post without following the due process of appointment which in the present case admittedly has not been followed. We, therefore, do not find any illegality in the order passed by the High Court which has affirmed the order passed by the Central Administrative Tribunal. However, in the facts and circumstances of the case, we direct that the appellant shall be permitted to continue on the said post and if the post is re-advertised the appellant may also apply and restriction of upper age limit for her shall be relaxed. This time also if no candidate belonging to other backward caste apply then

the case of the appellant be considered sympathetically.

The appeal stands disposed of accordingly.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI,
APRIL 07, 2017.

ITEM NO.53

COURT NO.10

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 23692/2016

(Arising out of impugned final judgment and order dated 06/05/2016 in CWP No. 594/2011 passed by the High Court Of Himachal Pradesh at Shimla)

BABITA KUMARI

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

(with interim relief and office report)

Date : 07/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s)

Mr. J.S. Attri, Sr.Adv.

Mr. Rameshwar Prasad Goyal, Adv.

Mr. Chandra Nand Jha, Adv.

For Respondent(s)

Mr.A.N.S. Nandkarni, ASG

Ms. Sadhana Sandhu, Adv.

Ms. Nivedita Nair, Adv.

Gurmeet Singh Makker, Adv.

Mr. Balraj Dewan, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(USHA BHARDWAJ)

AR-CUM-PS

(CHANDER BALA)

COURT MASTER

Signed order is placed on the file.