

THE FLAG OFFICER COMMANDING-IN-CHIEF AND ANR.

v.

MRS. M.A. RAJANI AND ANR.

MARCH 17, 1997.

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Service Law:*

*Ministry of Defence Recruitment of Stenographers (Grade III) Rules:*

*Rule 1 (d)—Recruitment—Post reserved for Scheduled Castes—Sources of appointment—By promotion/Transfer/Direct recruitment—After exhausting the sources of appointment by promotion and transfer, names were called from Employment Exchange and the respondent, a Scheduled Caste candidate, was selected—Meanwhile vacancy was dereserved, and respondent was refused appointment—Tribunal directed appointment of respondent—Held, when the candidate was available, resort to dereservation is clearly illegal—Tribunal was right in giving the direction to appoint the respondent who was duly selected by the Committee.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2235 of 1997.

From the Judgment and Order dated 8.3.96 of the Central Administrative Tribunal, Ernakulam, Kerala in O.A.No. 1399 of 1995.

V.C. Mahajan, Mrs. Sushma Manchanda and Mrs. Anil Katiyar for the Appellants.

K.M.K. Nair for the Respondents.

The following Order of the Court was delivered :

Leave granted. We have heard learned counsel on both sides.

This appeal arises from the order of the C.A.T. Trivendrum Bench, made on 8.3.1996 in O.A. No. 1399/95.

The only controversy is whether the respondent is entitled to appointment by direct recruitment to a reserved vacancy? Admittedly, Rule

A 1(a) of the Ministry of Defence Recruitment of Stenographers, (Grade III) Rules postulates appointment by promotion; failing that, by transfer and failing both, by direct recruitment. In this case, the sources of appointment, viz., by promotion and transfer, were exhausted. Consequently, the appellants resorted to direct recruitment and the respondent was called through the Employment Exchange for selection. Though she was selected, she was not given appointment on the specious ground that by proceedings under Ex. A3 the post was dereserved and that, therefore, she was not eligible for appointment. The Tribunal has not agreed with the contention of the appellants and directed them to appoint the respondent in accordance with Rules. Thus this appeal, by special leave.

B

C It is seen that Rule 1(a) postulates three sources for recruitment—first by promotion, second by transfer and on failing both of these methods, by direct recruitment. Admittedly, the post was reserved for Scheduled Castes. Accordingly, the respondent was called for selection. When the candidate was available, resort to dereservation is clearly illegal and,

D therefore, the Tribunal was right in giving the direction to appoint the respondent who was duly selected by the Committee.

The appeal is accordingly dismissed. No costs.

R.P.

Appeal dismissed.