

A.1814/2020

IN THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT  
BANGALORE

DATED, THIS THE 24<sup>th</sup> DAY OF SEPTEMBER, 2020

**PRESENT**

HON'BLE Dr. JUSTICE K.BHAKTHAVATSALA, CHAIRMAN

AND

HON'BLE Dr.S.K.PATTANAYAK, ADMINISTRATIVE MEMBER

**APPLICATION NO.1814/2020**

**BETWEEN**

GIRISH G.  
Son of Govindaraju,  
Aged about 24 years,  
Residing at No.404, 7<sup>th</sup> Cross,  
NGEF Layout, Mallathahalli,  
Bangalore - 560 056

APPLICANT

(By Sri M.S.Bhagwat, Advocate)

**AND**

1. THE DIRECTOR OF MUNICIPAL ADMINISTRATION,  
9<sup>th</sup> and 10<sup>th</sup> Floors, Visvesvaraya Tower,  
Dr.B.R.Ambedkar Veedhi,  
Bangalore - 560 001

2. THE KARNATAKA PUBLIC SERVICE COMMISSION,  
Represented by the Secretary,  
Udyoga Soudha,  
Bangalore - 560 001

RESPONDENTS

(Sri T.S.Mahantesh,  
Additional Government Advocate for  
Respondent No.1,  
Sri K.M.Prakash, Panel Advocate for  
Respondent No.2)

A.1814/2020

This Application is filed under Section 19 of the Administrative Tribunals Act, 1985, praying for direction to Respondent No.1 to consider case of the Applicant for appointment to the post of Chief Officer Grade-I pursuant to final selection list published as per Notification No.E(1)/2564/2019-20/PSC dated 10.1.2020 (vide serial No.2 of Annexure A6) under General Merit category and to grant him all consequential benefits.

This Application coming up for Hearing and the same having been heard and reserved for pronouncement of orders, this day, the **Hon'ble Chairman** made the following

**ORDER:**

Applicant is before this Tribunal praying for direction to Respondent No.1 to consider case of the Applicant for appointment to the post of Chief Officer Grade-I pursuant to final selection list published as per Notification No.E(1)/2564/2019-20/PSC dated 10.1.2020 (vide serial No.2 of Annexure A6) under General Merit category and to grant him all consequential benefits.

2. Learned counsel for the Applicant submits that pursuant to Recruitment Notification dated 12.5.2017 (vide Annexure A1) issued by Karnataka Public Service Commission (KPSC) calling online applications, for recruitment to 401 posts of Gazetted Probationers including 19 posts of Chief Officers Grade-I (12 posts for residual parent cadre and 7 for Hyderabad-Karnataka Region), the Applicant made online application on 24.5.2017 for

A.1814/2020

the post of Chief Officer Grade-I claiming reservation under Category 3A; that subsequently the posts of Chief Officers Grade-I were increased to 24; that the Applicant participated in the Preliminary Examination and later in the Final Examination followed by Viva voce and in all he scored 1130 marks and his name was included in the provisional selection list at serial No.2 for the post of Chief Officers Grade-I published vide Notification dated 23.12.2019 (vide Annexure A5); that vide Notification dated 10.1.2020 (at Annexure A6) final selection list came to be published maintaining his selection at serial No.2 for the post of Chief Officers Grade-I; that on receipt of selection list, on 19.2.2020 (vide Annexure A7) the Director of Municipal Administration (DMA) referred the 3A category certificate of the Applicant to the Deputy Commissioner, Tumkur District for validation; that letter dated 20.4.2020 (Annexure A8) the Deputy Commissioner replied that since the Applicant is selected to the post of Chief Officer Grade-1 under General Merit category, as per Government Order dated 12.12.1986, it is not necessary to get validation certificate; that on 28.4.2020 the DMA sought clarification from KPSC as to whether validation is necessary for those candidates who are selected under General

A.1814/2020

Merit category notwithstanding claiming reservation under Category 3A or 3B, as the case may; that on 30.4.2020 (Annexure A9) by way of reply the KPSC clarified that in view of Rule 9 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Rules, 1992, no person who claims the benefit of reservation shall be appointed to a service or a post under Government or to an establishment in public sector without production of validity certificate; that in view of the said clarification, the DMA as per letter dated 4.5.2020 (Annexure A10) once again requested the Deputy Commissioner to issue validation certificate; that on 8.5.2020 the Applicant submitted a representation to the DMA to issue appointment order to him, but in vain; that on 15.5.2020 (Annexure A11) the Deputy Commissioner reiterated his stand that the documents show that the Applicant is selected under General Merit category and since he is not seeking reservation, there is no need to issue validation certificate; that in spite of repeated clarification given by the Deputy Commissioner, the DMA has not issued order of appointment to the Applicant and hence the Applicant is before this Tribunal. Learned counsel for the Applicant further submits that since the Applicant is selected

A.1814/2020

under General Merit Category by sheer dint of merit, validity certificate is not required in his case; that on 11.5.2020 and 29.5.2020 the DMA has issued orders of appointment in respect of 6 and 17 candidates, respectively, but in the case of the Applicant order of appointment is withheld, which is discriminatory; that the action of DMA in insisting on validation certificate is contrary to Government Order dated 12.12.1986; that under similar circumstances, this Tribunal in Application No.4602/2017 (MARIGADEPPA K. v. STATE AND OTHERS) disposed of on 1.6.2018 (Annexure A-14) was pleased to hold that no caste verification certificate/validation is necessary for candidates who claim reservation but selected under General Merit Category; that even before publication of final selection list by way of objections to the provisional selection list the Applicant pointed out that he is selected under General Merit and not category 3A and necessary correction may be made in the provisional selection list in so far as Category under which he is selected, but in vain; that inaction on the part of DMA in not considering the representation of Applicant and the clarification given by the Deputy Commissioner is untenable in law and hence the Application may be allowed as prayed for. He refers to

decision of the Hon'ble Supreme Court in the case of PRADEEP SINGH DEHAL v. STATE OF HIMACHAL PRADESH, reported in (2019) 9 SCC 276 on the point that benefit of reservation is granted to Scheduled Castes, Scheduled Tribes, Other Backward Classes etc., as is permissible in law, concessions availed by reserved category candidates are in nature of age relaxation, lower qualifying marks, concessional application money etc., and if a reserved category candidate qualifies on merit, he will occupy general category seat.

3. Respondent No.2-KPSC has filed Reply Statement, but Government has not filed Reply Statement.

4. Learned Panel Advocate for KPSC submitted that the Applicant made application under Category 3A and also produced original 3A Category Certificate at the time of verification of documents; that while making application he claimed concession in fee and paid Rs.150/- as against Rs.300/- fixed for General Merit candidates and he also participated in the selection process as a candidate belonging to Category 3A; that though the Applicant is selected under General Merit/3A/Others by virtue of his merit he cannot relinquish his claim under 3A category and

A.1814/2020

request for his appointment under General Merit category and he also; that as per Rule 9 of the Karnataka Scheduled Caste, Scheduled Tribe and Other Backward Classes (Reservation of Appointment etc.,) Rules, 1992, no candidate who claims the benefit of reservation shall be appointed to a service or a post under Government or to an establishment in public sector without production of the validity certificate; that until and unless the Applicant produces the validity certificate he cannot claim appointment and the Application is liable to be rejected.

5. It is not disputed that the Applicant made application for the post of Chief Officer Grade-1 under Category 3A, but he is selected under General Merit Category as per final selection list published vide Notification dated 10.1.2020 (at Annexure A6) and he was allotted to DMA. As the Applicant was selected under General Merit category there was no need to refer his 3A Category Certificate for validation in the light of paragraph 13(ಃ) of Government Order bearing No.DPAR.28.SBC.86 dated 12.12.1986. English version of the said paragraph 13(ಃ) states that "the validity of the candidate's caste, income and employment need not be made who are selected under General Merit Category. Therefore, the DMA ought to have issued

A.1814/2020

appointment order to the Applicant without referring his 3A Certificate for validation. Despite the above said provision in Government Order dated 12.12.1986, on 19.2.2020 (vide Annexure A7) the DMA referred the 3A Category certificate of the Applicant to the Deputy Commissioner, Tumkur District, for validation. On 20.4.2020 (at Annexure A8) the Deputy Commissioner replied that as per Government Order dated 12.12.1986 it is not necessary to get validation certificate. The Deputy Commissioner reiterated his stand in his letter dated 15.5.2020 (vide Annexure A11). But ignoring the clarification issued by Revenue Authorities, placing reliance on clarification given by KPSC that as per Rule 9 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment) etc., Rules, 1992, no person who claims the benefit of reservation shall be appointed to a service or a post under Government or to an establishment in public sector without production of validity certificate, the DMA has not so far issued appointment order to the Applicant. Rule 9 of the above said Rules applies to cases where a candidate belonging to a reserved category is appointed to a post earmarked for reserved category, but not to cases where a reserved category



A.1814/2020

candidate is appointed against General Merit post, as has happened in the case of the Applicant. Verification of category certificate of a reserved candidate after his appointment against General Merit post is nothing but harassment of candidate. In the case on hand, the final selection list was issued on 10.1.2020, but so far appointment order is not issued to the Applicant. In similar circumstances, this Tribunal in Application No.4602/2017 (MARIGADEPPA K. v. STATE AND OTHERS) disposed of on 1.6.2018 (Annexure A-14) has held that no caste verification certificate/validation is necessary for candidates who claim reservation but selected under General Merit Category. It is well settled that migration from reserved category to general category shall be admissible to those reserved category candidates who secured more marks obtained by the last unreserved category candidates who are selected, subject to the condition that such reserved category candidates did not avail any other special concession. (Relied on VIKAS SANKHALA v. VIKAS KUMAR AGARWAL (2017) 1 SCC 350 – Referred in PRADEEP SINGH DEHAL v. STATE OF HIMACHAL PRADESH (2019) 9 SCC 276, on which learned counsel for the Applicant placed reliance in this case). Therefore, the stand taken by DMA

A.1814/2020

that since the Applicant belongs to 3A category and has made application claiming reservation under that category, validation is mandatory is untenable in law. The contention of KPSC that since the Applicant availed concession in fee while making application by paying lesser fee vis-à-vis the fee fixed for General Merit candidates and since he participated in selection process as a candidate belonging to 3A category, he cannot later claim exemption from validation is untenable for the simple reason that at the time of making application or participation in selection process, a reserved category candidate would not be knowing about his chances of selection against General Merit category at a later date. From the documents it is seen that candidates who were selected along with the Applicant have been issued orders of appointment and one such order is dated 29.5.2020 (vide Annexure A13). On one hand KPSC says that validation is necessary and on the other hand the Deputy Commissioner, who heads a District and would be well versed in the matter of issuance and verification of caste and category certificates opines that if a candidate belonging to reserved category is selected under General Merit category, validation in his case is not necessary. In view of the said conflicting stand,

A.1814/2020

the DMA is unable to issue appointment order to the Applicant. Therefore, to meet the ends of justice, a direction has to be issued to the DMA to issue appointment order to the Applicant within a time frame without insisting on validation certificate.

6. In the result, we pass the following Order:

Respondent No.1 is directed to issue appointment order to the Applicant to the post of Chief Officer Grade-1 pursuant to his selection under General Merit category as per final selection list dated 10.1.2020 (vide serial No.2 of Annexure A6), within fifteen days from the date of receipt of certified copy of this order.

RMK-