

ORDER

The State has filed the captioned petition seeking to quash the complaint dated 31.5.2023 lodged by respondent No.2 against the petitioners before respondent No.1-National Commission for Scheduled Caste, as per Annexure-G; subsequent proceedings dated 22.8.2023 vide Annexure-M and letter dated 23.08.2023 vide Annexure-N of respondent No.1.

2. Respondent No.1-Commission has entertained a complaint relating to service matter and has issued following directions. The same is culled out as under:

"Therefore, based on all the facts and with reference to the earlier minutes dated 17.11.2021 and 05.05.2022, The Commission advised the Chief Engineer to appraise the issue to the Principal Secretary, KPWD and do the needful in implementing the Commission's recommendations within 15 Days. The Commission's expects that the recommendation is implemented within 15 days. In case of non-implementation of the

recommendation, the Commission may re-examine the matter in the light of SC/ST POA Act 1989 for appropriate course of action.

Copy of this proceedings shall also be sent to the Hon'ble PWD Minister, Government of Karnataka for information and suitable direction for necessary action in this regard."

3. Heard the learned AGA and the learned counsel appearing for respondents.

4. Respondent No.2 approached this Court W.P.No.12079/2022 assailing the endorsement dated 6.6.2022 wherein the request of respondent No.2 for appointment to a higher post since he possesses B.E. (Civil), M.Tech was rejected. This Court dismissed the said writ petition. It would be useful to refer Para 5 of the order, which reads as under:

"5. In respect of the grievance of Government servant and in the matter of recruitment and appointment to civil posts, the Administrative Tribunals Act, 1985 provides remedy. A person who seeks appointment to a civil post under the State would have to approach the Administrative Tribunal established under the provisions of 1985 Act. When a special forum is provided under

special enactment, this Court normally would not entertain the writ petition under Article 226 of the Constitution of India. Since the petitioner's grievance relates to appointment to a civil post, I decline to entertain the writ petition."

5. On examining the material on record, respondent No.1-National Commission has no jurisdiction to entertain the complaint. The exercise undertaken by respondent No.1-National Commission is found to be contrary to the catena of judgments rendered by the Apex Court in ***All India Overseas Bank SC and ST Employees' Welfare Association and others .vs. Union of India and others***¹ and also the judgment rendered by the Co-Ordinate Bench in W.P.No.63405/2016 disposed of on 23.11.2020. The Co-ordinate Bench of this Court while examining the powers of the National Commission held that respondent No.1 cannot issue any positive direction concerning the conditions of service of respondent

¹ 91996) 6 SCC 606

No.2. In absence of any authority/jurisdiction, respondent No.1 has issued a direction to the petitioner-State, which is culled out supra.

6. It is imperative to accentuate that the jurisdiction and authority vested in the National Commission for Scheduled Castes (NCSC) are delineated specifically to matters pertaining to the protection, welfare, and socio-economic development of Scheduled Castes (SCs) as envisaged under Article 338 of the Constitution of India. Within this purview, the NCSC is mandated to investigate, monitor, and advise on issues concerning the safeguards provided for SCs under the Constitution. However, it is axiomatic that the ambit of the NCSC's jurisdiction does not extend to adjudicating upon or entertaining complaints relating to service matters, specifically those pertaining to seniority and promotion. Such

matters, by their very nature, fall within the realm of administrative law and are subject to adjudication by specialized adjudicatory bodies such as administrative tribunals with competence in service-related disputes.

7. It is essential to highlight that the NCSC's role, while pivotal in safeguarding the rights and interests of SCs, is circumscribed by the overarching principles of constitutionalism, rule of law, and separation of powers. As such, the Commission is entrusted with the responsibility of ensuring the effective implementation of safeguards and measures aimed at promoting the socio-economic advancement of SCs, rather than adjudicating upon individual disputes of a service-related nature. Therefore, it is incumbent upon the NCSC to operate within the confines of its statutory mandate and refrain from entertaining complaints or issuing directives with

regard to service matters, including issues of seniority and promotion, which fall squarely within the domain of administrative tribunals or other specialized adjudicatory bodies endowed with the requisite jurisdiction and expertise to adjudicate upon such disputes.

8. The grievance of respondent No.2 that he is entitled for promotion to a higher post since he has acquired a bachelor of Engineering in Civil and M. Tech was not entertained by this Court in W.P.No. 12079/2022. This Court has relegated respondent No.2 to approach Karnataka Administrative Tribunal. Respondent No.2 instead of ventilating his grievances before the Tribunal has taken a recourse of lodging a complaint with respondent No.1-National Commission, which has no authority/jurisdiction to issue direction in regard to service matters. Respondent No.1-National Commission without taking note of its restricted role

which is only in the nature of recommendations in dealing with complaints as indicated in the Statute has not only exceeded its authority but recommendations are made touching upon service matters which squarely fall within the domain of Karnataka Administrative Tribunal.

9. In the light of the law laid down by the Apex Court and the judgment rendered by the Co-Ordinate Bench in the cases referred to supra, the petition succeeds.

10. Hence, I pass the following:

ORDER

- (i) The writ petition is allowed.
- (ii) The complaint dated 31.5.2023 lodged by respondent No.2 against the petitioners before respondent No.1-National Commission for Scheduled Caste, as per Annexure-G;

subsequent proceedings dated 22.8.2023 vide Annexure-M and letter dated 23.08.2023 vide Annexure-N of respondent No.1 are hereby quashed.

Sd/-
JUDGE

*alb/-