

PETITIONER:
S. JAFFAR SAHIB

Vs.

RESPONDENT:
SECRETARY, A.P.P.S.C. & ORS.

DATE OF JUDGMENT: 24/10/1996

BENCH:
K. RAMASWAMY, G.B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

PATTANAIK, J.
Leave granted.

This appeal by special leave is directed against the order of the Andhra Pradesh Administrative Tribunal dismissing the appellant's application registered as O.A. No. 40498 of 1990 and the order dismissing the review application filed by the appellant which was registered as M.A. No. 2191 of 1994 by order dated 24th August, 1994.

The Secretary, Andhra Pradesh Public Service Commission has issued an advertisement for the 20 posts in Group I services in the cadre of Deputy Collector for the recruitment year 1980-81 by a Notification dated 28th January, 1980. The appellant who was qualified and eligible to apply for the same, appeared at the written test conducted by the Public Service Commission and also appeared in the interview which was held on 19th January, 1981. It was decided to fill-up 10 posts of Deputy Collector out of which two posts were meant for Scheduled Castes, one for Backward Class Group 'A' and two for Backward Class Group 'D' and rest 5 for candidates from open competition. The appellant belong to the last category whereas respondents 4 to 9 belong to the Backward Classes category. The appellant challenging the appointment of the respondents on the ground that in making the appointment the concerned authority violated the provisions of the Rules of Reservations and in fact appointed persons from reserved category more than the percentage of reservation meant, filed an application in the Nadir Prates Administrative Tribunal which was registered as R.P. No. 6652. The Tribunal, however, did not interfere with the appointments made in the year 1981 on the ground of laches on the part of the appellant to approach the Tribunal but observed that the representation of the appellant may be considered for any future vacancy. The appellant thereafter made a representation to the Public Service Commission and the Commission rejected the same holding that the Commission has no power to consider anybody's application on compassionate ground. The appellant then filed a fresh petition before the Tribunal which was registered as O.A. No. 40498 of 1990 and the said

application was dismissed by Tribunal on the ground of latches taking into account the fact that a selection made as early as in the year 1980 cannot be annulled in the year 1994 when the application challenging the said selection was filed as late as in 1990. The appellant then filled an application for review and the review application having been rejected by the impugned order dated 24th August, 1994, has approached this Court.

The appellant appeared in person in this Court and contended that appointments having been made contrary to the Rules of Reservations, the said appointments are invalid and inoperative. The appellant's right to be appointed was illegally taken away and therefore this Court should annul the appointment of the respondents forthright and direct reconsideration of the appellant's appointment. We are unable to accept this contention at this belated stage. As has been stated earlier the appellant challenged the appointment of the respondents before the Tribunal in the year 1987 and the Tribunal did not interfere with the appointments made in the year 1981 and the said order became final not being challenged in any higher court. The appellant then filed second round of petition in the year 1990 which was rejected by the Tribunal on the ground of latches and the application for review stood dismissed on the ground that there is no error of law apparent on the face of the order which can be reviewed by the Tribunal. On the admitted facts that appointment of respondents to the post of Deputy Collector was made in the year 1981, an application before the Tribunal in the year 1990 could not have been entertained after lapse of 9 years. Then again there is an additional hurdle on the part of the appellant namely affected persons are not made parties to the proceedings. It is too well settled that without impleading a person as a party whose rights would be affected, no Court/Tribunal can pass any order against him. In the aforesaid premises we find no justification for our interference under Article 136 of the Constitution with the impugned order of the Tribunal. The appeal is accordingly dismissed but in the circumstances there will be no order as to costs.