

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No. 22521 OF 2006

ORDER: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The State Government in this Writ Petition calls in question the sustainability of the orders passed by the Andhra Pradesh Administrative Tribunal in O.A.No. 3303 of 2002.

The respondent herein was the applicant before the Tribunal. He was directly recruited as a Grade-II Warden in the Backward Classes Welfare Department. He was subsequently promoted as Grade-I Warden on 12.04.1992. The next higher post, which a Grade-I Warden can be promoted, is Assistant Backward Classes Welfare Officer. However, when his turn came, his case was not considered as he did not have the graduation qualification. It was urged by him before the Tribunal that the recruitment rules did not contain any such requirement and hence, the Tribunal, following its earlier judgment, dated 06.03.2002 rendered in O.A.No. 6876 of 2001, allowed O.A.No. 3303 of 2002 filed by the respondent herein also.

Learned Government Pleader for Services (Telangana) has brought to our notice that the recruitment rules governing the post of Assistant Backward Classes Welfare Officer have been amended by the Governor and the amendment was also brought-forth from retrospect effect i.e. from 09.07.1996, the date on which the recruitment rules have been promulgated. It is not in dispute that the Governor, in exercise of the power available to him under the Proviso to Article 309 of the Constitution, is also entitled to carry out any amendment to the recruitment rules with retrospect effect. The amended rule has also been notified through G.O.Ms.No. 15, Backward Classes Welfare (A2) Department, dated 02.04.2002. It is, no doubt, true that this amendment of the rule has been notified subsequent to the judgment rendered by the Andhra Pradesh Administrative Tribunal, but nonetheless, in view of bringing into force the amendment with retrospect effect namely the date on which the original rules have been promulgated, it is now clear that the amendment will take the form and shape as if the requirements contained therein are so prescribed

in the rules notified on 09.07.1996 itself. Consequently, unless one has the academic qualification of a graduation, his case cannot be considered for promotion as an Assistant Backward Classes Welfare Officer. In the absence of any challenge to the notification, we are of the opinion that the order passed by the Tribunal becomes unsustainable.

Accordingly, this Writ Petition stands disposed of preserving liberty to the respondent, if so advised, to challenge the correctness of the amendment brought-forth to the rules. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

ANIS, J

28th September 2015

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