

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No.2265 of 2003

ORDER:

The Director General of Fire Services, Andhra Pradesh and various other Officers of the said department have preferred this writ petition against the orders passed by the Andhra Pradesh Administrative Tribunal in Review M.A.No.363 of 2000 in O.A.No.5568 of 1998 dated 22.10.2002.

We have gone through the order passed by the Tribunal in O.A.No.5568 of 1998 on 08.02.1999 as well as the order passed on 22.10.2002 in Review M.A.No.363 of 2000 preferred by the petitioners herein.

The respondent herein instituted O.A.No.5568 of 1998. His case was that he obtained B.A. degree and while his father was working as a Station Fire Officer retired from service on medical invalidation grounds on 15.04.1991. When the applicant before the Tribunal applied for appointment in the department, he was subjected to a selection process on 18.01.1993 at Machilipatnam and he has been disqualified on the ground that his height was

164.5 cms and he was fallen short in requirements of height by 1 cm and hence, his case for appointment on compassionate ground has been rejected. Against the said order of rejection, the respondent herein filed O.A.No.1607 of 1993 and 1608 of 1993. Those O.A.s were disposed of on 15.07.1993 directing the respondents to consider the case of the applicant for appointment as Fireman or against any other suitable post if he satisfies the qualification. It is the case of the petitioners herein that for appointment as a Fireman, certain physical standards have been prescribed, which have nexus with the duties and responsibilities liable to be discharged by such a Fireman and one is

required to stand at 167.6 cms. Since the applicant does not possess this physical standard of fitness, his case cannot be considered for appointment as a Fireman. In so far as post of Junior Assistant is concerned, though the applicant is otherwise qualified and suitable, but since the vacancy that arose in Junior Assistant is required to be filled in with a candidate belonging to BC-A category as per the running roster maintained for the unit of appointment and since the applicant does not belong to backward class, but belongs to open category, his case cannot be considered for appointment as a Junior Assistant either.

This was not found favour with the Tribunal. The State Government has introduced the scheme of making appointments on compassionate basis in favour of one or the other member of the family of the servant, who is retired on medical invalidation grounds. This policy measure has been adopted by the State Government more with a view to provide a succor to the retiring government employee. For purpose of ensuring that only genuine claims and cases would be required to be considered, one of the requirements prescribed was that the retiring government servant must have left at least 5 years of service for his eventual retirement. This being a welfare measure introduced by the State Government, rejection of the candidature of the respondent herein for appointment as Junior Assistant is clearly unsustainable. For appointments to be made on compassionate grounds, question of becoming available a vacancy, meant for the social sector to which the applicant belongs against which such an appointee can be fitted in is not a requirement. Even if the applicant does not belong to BC-A category, but belongs to OC, his case is liable to be considered and if he is found otherwise suitable, he should have been appointed as Junior Assistant duly fitting him against immediate next available Open Category slot in the running roster, so that as and when the next vacancy arises for purpose of direct recruitment, the vacancy can be filled in with BC-A category candidate. Thus, operation of a cycle or the roster point cannot be linked to the appointments to be made on

compassionate grounds. Making compassionate appointment itself is a kind of exception to the normal practice and rule of throwing open the vacancies for competition by all candidates satisfying the requisite criteria, including the social sector prescribed in the running roster.

We are, therefore, having no hesitation to hold that the view taken by the Tribunal is a correct view and it does not warrant any interference at our hands and this writ petition is devoid of merits and accordingly, it is dismissed. No costs.

Consequently, miscellaneous petitions, if any, pending shall also stand dismissed.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

26.10.2015
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