

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

WRIT PETITION No.21872 of 2000

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Between :

K.V.T. Prasada Rao S/o.Suryanarayana

... Petitioner

AND

Visakhapatnam Port Trust,
Rep. by its Chairman & Managing Director,
Visakhapatnam and two others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 07.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE JUSTICE S. RAVI KUMAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.21872 of 2000

ORDER:

This writ petition is filed to declare the selection and appointment of the 3rd respondent to the post of Fire and Assistant Security Officer as arbitrary, illegal and void and consequently set aside the appointment of 3rd respondent to the post of Fire and Assistant Security Officer and direct the respondents to appoint the petitioner to the post of Fire and Assistant Security Officer in the 1st respondent Port Trust with effect from the date of selection and appointment of the 3rd respondent i.e., 05.10.2000 with all consequential benefits.

2. It is the case of the petitioner that respondent Nos.1 and 2 advertised in the year 1998 calling for applications to fill up the post of Fire and Assistant Safety Officer (Class-II) in the open category and a notification was published in the Newspapers on 10.10.1998. According to petitioner, age limit was prescribed as 35 years as on 01.10.1998 and the qualifications prescribed are graduate of a recognized university, training in a recognized Fire Training School, with experience of not less than three years in a supervisory capacity in regular fire service. According to petitioner, he joined in A.P. Fire Service as Station Fire Officer on 03.06.1993 as a direct recruitee and undergone one year training school at Hyderabad

and also acquired post graduate degree through correspondence course besides other credentials. According to petitioner, he was fully qualified to the post advertised, therefore, he applied for the said post through proper channel and as many as 70 persons applied to the said post and out of the applicants, petitioner and two others were called for written test and in the written test, petitioner and one person by name Kumar Raju were qualified and as Kumar Raju got more marks, he is appointed in the said post on 01.01.1999 and petitioner was kept in the panel. According to petitioner, in the meantime a temporary vacancy arose due to the dismissal of one Ramesh Kumar and pending regular filling of the said post, the Visakhapatnam Port Trust requested the Regional Fire Officer, Eastern Region, Visakhapatnam, to spare the services of petitioner for a period of six months on lein basis or until the post is filled up, whichever is earlier. According to petitioner, the Regional Fire Officer has replied stating that there is no provision for sparing the services of petitioner and that the request can be made for deputation and consequently the Port Trust addressed a letter dated 18.04.2000 informing that they are willing to take the services of petitioner to the post of Fire and Assistant Security Officer and to relieve the petitioner. According to petitioner, the Regional Fire Officer replied to the Port Trust stating that Director General, A.P. Fire Services is the competent authority to

issue deputation orders and on that Port Trust addressed a letter to the Director General of Fire Services and consequently Director General granted permission on 03.08.2000. According to petitioner, in the mean time Port Trust issued advertisement for filling up the post by direct recruitment on 28.07.2000 and in view of the same, he could not be appointed on deputation basis. According to petitioner, pursuant to the notification dated 28.07.2000, 47 persons were applied and respondent No.3 was not having any training in fire fighting in a recognized Fire Training School and only he got First Aid Certificate from Nagpur College And that he was working as Sub-Officer in Bharat Heavy Plates and Vessels Limited Visakhapatnam and he has crossed the age of 38 years as on 01.07.2000 and the other person by name Sri Rama Rao, who was qualified was also over aged by 2 ½ years. According to petitioner, they were called for written test on 05.10.2000 and that he has attended the written test and all the three members were interviewed, though other two persons have not produced no objection certificate from their employer, respondent No.3 was declared selected and appointed to the post and that he could not secure the copy of the appointment order in spite of his best efforts. According to petitioner, respondent No.3 is not at all qualified for the post and the selection is arbitrary, illegal and void and consequently the same has to be set aside. Therefore, petitioner prayed that a direction to be given to

respondent Nos.1 and 2 to appoint the petitioner to the Post of Fire and Assistant Security Officer with effect from 05.10.2000.

3. Respondent Nos.1 and 2 filed counter disputing the contentions of petitioner and according to their counter, after making advertisement about the post, they received the letter of Director General, Fire Services, dated 03.08.2000, and accordingly they have informed the Director General of Fire Services that it is not possible for them to take the services of petitioner, as the Visakhapatnam Port Trust has already given advertisement for the said post. According to respondent Nos.1 and 2, only 42 persons applied in pursuance of the advertisement and the allegation that respondent No.3 has no qualification is incorrect. They contended that there is no illegality in the appointment of respondent No.3 as Fire and Assistant Security Officer, Class-II and that the writ petition is liable to be dismissed.

4. Respondent No.3 filed counter disputing the contention of petitioner and according to him, he has got requisite qualification to hold the post of Fire and Assistant Security Officer and got the required experience in a regular fire service and petitioner has not made out any case to grant the relief as prayed in the writ petition and that the writ petition has to be dismissed.

5. Heard both sides.

6. Advocate for respondent No.3 submitted that

respondent No.3 has resigned the job of Fire and Assistant Security Officer in Visakhapatnam Port Trust and joined in another department, therefore, the relief of cancellation of appointment of respondent No.3 has become infructuous and the writ itself has become infructuous. In reply to this, advocate for petitioner submitted that the fact of respondent No.3 resigned the present post is not disputed, but the petitioner claimed that he should be appointed as Fire and Assistant Security Officer in place of respondent No.3 with effect from 05.10.2000 and writ may be disposed of directing respondents to consider the request of petitioner. Request of advocate for petitioner can be considered by Department but this Court cannot grant relief directing respondents 1 and 2 to post the petitioner in the vacancy caused due to resignation of 3rd respondent. However, it is made clear that respondents 1 and 2 may consider the request of petitioner provided the post is still vacant and petitioner is eligible and qualified as on the date of vacancy caused due to resignation of 3rd respondent.

7. Accordingly, the writ petition is disposed of. No costs.

8. Miscellaneous Petitions, if any, shall stand closed.

S. RAVI KUMAR, J

7th August 2015.

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