

**THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

WRIT APPEAL No.804 of 2007

JUDGMENT: (per Hon'ble Sri Justice A.Ramalingeswara Rao)

This writ appeal is directed against the order dated 02.03.2007 passed by the learned single Judge in W.P.No.20950 of 1996.

The writ petition was filed by the respondent in the appeal challenging the proceedings No.P2/331(02)/89-DVM/SKLM and proceedings No.HC/23/402 (1)/95-RM/SKLM and the action of the appellants in not absorbing the writ petitioner into appellant-Corporation. It is the case of the respondent that he was working as cleaner since 1985 in a private city bus service of Bhavani Bus Service at Danta. He was doing the job as cleaner of bus bearing No.APS 1806 in the route of Danta to Bhavanapadu. The said bus service was taken over by the APSRTC on 12.11.1987. Thereafter, the appellant-Corporation took a policy decision to absorb all the employees worked under the private owners. The respondent applied for the post of cleaner and he received a call letter for interview on 07.09.1989. Though he appeared before the Selection Committee, his case was not considered. In such circumstances, he filed W.P.No.4489 of 1995 and the same was disposed on 28.06.1995 directing the appellants herein to consider the case of the respondent for absorption as cleaner. After receipt of the said order, the appellants again called the respondent for interview on 11.09.1995 and verified his certificates. They have issued notice No.HC/P3/402 (1/95)-RM/SKLM dated 27.10.1995 rejecting his claim. The ground shown in the said notice was that sufficient number of cleaners were already absorbed against the said route. In those circumstances, the respondent filed the above writ petition.

The learned single Judge has considered the rival contentions and gave a finding with regard to the points 'whether the writ petitioner was having knowledge of the vehicle, route course, and whether the required number of cleaners were already absorbed against the said route'. The learned Single Judge came to the conclusion that the main reason put forth in the show cause notice and in the counter affidavit that the respondent did not have the knowledge of vehicle, route course, cannot be accepted and denial of employment on that ground was held to be arbitrary. With regard to the second point, it was observed by the learned single Judge that the said reason was not mentioned in the show cause notice or in the counter affidavit. Accordingly, he allowed the writ petition and directed the appellants herein to absorb the respondent herein as cleaner within a period of eight weeks from the date of the said order and it was made clear that the order of appointment would take effect from the date on which the order was issued and the respondent herein was not entitled to any benefits for the period prior to his appointment as cleaner. As against the said order, present writ appeal has been preferred.

In view of the interim suspension granted by this Court on 27.09.2007, the said order was not implemented by the appellants.

On perusal of the affidavit filed by the respondent and the counter affidavit of the appellants and also the order of the learned Single Judge, we are in agreement with the findings recorded by the learned Single Judge. Accordingly, we see no point to interfere with the order of the learned Single Judge, the appeal is liable to be dismissed and is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending in the appeal, if any, also stand disposed of.

Dilip B.Bhosale, J

27th April, 2015.
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A.Ramalingeswara Rao, J