

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No.24909 of 2015

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

The Andhra Pradesh Public Service Commission filed this writ petition calling in question the correctness of the orders passed by the Andhra Pradesh Administrative Tribunal in O.A.No.1336 of 2013, which O.A. was instituted by the first respondent herein.

The Andhra Pradesh Public Service Commission has published a notification on 30.12.2008 proposing to make recruitment to Group-II, which comprises of several posts in various services under the State. At the written test conducted by the Andhra Pradesh Public Services Commission, he seems to have secured 233 marks and hence, he was called for an interview. The total marks thereafter awarded to the applicant before the Tribunal stood at 249. The applicant has claimed that he has hearing disability and therefore his case is liable to be considered for appointment under the hearing disabled category candidate. The applicant was examined by the Government E.N.T Hospital at Koti, Hyderabad. The certificate was issued by the Professor of E.N.T, Osmania Medial College/E.N.T Surgeon, Government E.N.T Hospital, Hyderabad and endorsed by the Superintendent & Chairman of the Medical Board of the Government E.N.T Hospital, Hyderabad would set out that the applicant has 69% of hearing disability. Therefore, he belongs to Category-II. The degree of hearing disability in this case was recognized as of moderate category. Since, the certificate described the applicant to be having moderate

disability, his case for employment has not been considered. It is appropriate to notice the definition of “person with disability” under Section 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 as under:

“person with disability” meaning a person suffering from not less than forty percent of any disability as certified by a medical authority.

Therefore, the applicant is a person who answers the definition of a disabled person and consequently, if a vacancy is set apart to be filled in with a hearing impaired candidate, the case of the applicant before the Tribunal deserves to be considered. The Tribunal has also found that atleast two candidates who secured lesser percentage of marks than the applicant were selected and appointed under the hearing impaired category. In that view of the matter, the Tribunal issued a direction to the Andhra Pradesh Public Service Commission to finalize the selection of the applicant according to his merit for appointment to the posts under the Executive Cadre, either in the vacancy that was directed to be kept vacant by virtue of an interim order passed by the said Tribunal earlier or any other vacancy in the posts under the Executive Cadre, as per the preference exercised by the applicant before them. A further declaration that, he is also entitled for all consequential benefits of seniority with effect from the date of selection of candidates is also granted.

Learned Standing Counsel for the Andhra Pradesh Public Service Commission would contend that when the hearing impairment of the applicant was found to be of moderate intensity, his case cannot be considered. Only when the case falls under severe or profound category of hearing disability, then alone, the case can be considered for appointment under the quota reserved for the hearing impaired.

The Persons with Disabilities (Equal Opportunities, Protection of

Rights and Full Participation) Act, 1995, is a special piece of legislation made by the Parliament. In that, the expressions 'person with disability' has been defined in Section 2(t) as a person suffering from not less than forty percent of any disability as certified by a medical authority. Specifically, 'hearing impairment' has been defined in Section 2(l) as loss of sixty decibels or more in the better ear in the conversational range of frequencies. The certificate produced from the Government E.N.T Hospital, Hyderabad clearly recorded that the respondent/applicant was having 69% of hearing disability. In such a case, there is no escape except to treat the applicant as a person with disability and accordingly his case is liable to be considered. Therefore, the view taken by the Andhra Pradesh Administrative Tribunal is a proper one and it does not warrant any interference at our hands.

Accordingly, this writ petition fails and it is dismissed, but however without costs.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

27.10.2015
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