

*** THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

+ WRIT PETITION No. 11145 of 2015

% Dated 30.04.2015

V. Venkat Kanna
Assistant Professor
Department of Public Administration and
Human Resource Management
Kakatiya University
Warangal Petitioner

Vs.

\$ 1. Kakatiya University, Warangal
2. The State of Telangana
Education Department,
Represented by its Secretary,
Secretariat Building, Hyderabad Respondents

! Counsel for the petitioner : Sri T. Vinod Kumar

^ Counsel for the respondents :
1. Sri Deepak Bhattacharjee
2. Government Pleader for Education (Telangana)

<GIST:

> HEAD NOTE:

? Cases referred

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 11145 OF 2015

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ORDER:

The petitioner who is working as an Assistant Professor, Department of Public Administration and Human Resource Management, Kakatiya University, Warangal, seeks a Writ of Mandamus directing the first respondent University to constitute a Selection Committee in compliance with the guidelines issued by the University Grants Commission and the orders of the State Government contained in their G.O.Ms.No.208 Higher Education (UE.II.I) Department dated 29.06.1999 and to conduct interview for the post of Assistant Professor in the Department of Public Administration (Human Resource Management) in the OC Category pursuant to Notification No.2/2003 dated 10.10.2003.

In paragraph 2 of the affidavit filed in support of this writ petition, the petitioner has averred that the present writ petition is filed challenging the correctness of the orders passed by the first respondent vide letter dated 24.03.2015 setting-out that the interviews held on 19.06.2005 pursuant to Notification No.2/2003 dated 10.10.2003 have been carried out properly and that the petitioner has not been selected for the post of Assistant Professor, Department of Public Administration and Human Resource Management.

For the present, I will leave aside this apparent contradiction between the prayer made and the averment contained, as referred to supra.

The case of the petitioner is that, he was working in the Department of Public Administration and Human Resource Management of the first respondent-Kakatiya University, Warangal since July, 1992 onwards on ad hoc basis. The petitioner has admitted that the first respondent-University has issued Notification No.2/2003 on 10.10.2003 notifying for recruitment 35 teaching faculty posts

amongst whom three posts of Assistant Professors have been notified in the Department of Public Administration and Human Resource Management. One is reserved for Scheduled Castes Candidates, while the other two are meant for Open Category (Woman) and Open Category, thus implying that any women candidate can compete for the one slot of OC (Women) and any candidate can compete against the open competition vacancy. The first respondent is obviously following the principles of reservation in favour of various social segments, such as, Scheduled Castes, Scheduled Tribes and Backward Classes (A,B,C and D groups). For purposes of regulating equitable distribution of the posts amongst all these social sectors, a running cycle is prescribed and each slot in the cycle is filled up to the extent possible by the candidates selected belonging to the sector/segment concerned. However, it is also admitted that the interviews were conducted by the first respondent-University on 19.06.2005. The petitioner appeared before the Selection Committee comprising of the Vice-Chancellor of the University, the Registrar of the University, Prof. P. Narasimha Rao, Head of Department of Public Administration and Human Resource Management, Prof. B. Prabhakar Rao, Chairman, Board of Studies, Department of Public Administration and Human Resource Management, Prof. N. Linga Murthy, Dean Faculty of Social Sciences and three experts comprising of Prof. Sofi Ali of the Department of Public Administration, Osmania University, Hyderabad, Prof. Purushotham, Department of Public Administration, Sri Krishnadevaraya University, Anantapur and another professor nominated by the University Grants Commission. As per the communication dated 24.03.2015 of the first respondent-Kakatiya University, the Selection Committee recommended the name of Dr.G.Pani against the slot for Scheduled Castes candidates. Against the slot of Open Category (Women), Dr. T.V. Sujatha Kumari was

selected by the Selection Committee. The Selection Committee did not select the petitioner and consequently did not recommend any candidate for the post earmarked for Open Category.

The Executive Council of the University at its 58th meeting held on 20.06.2006 approved the recommendations of the Selection Committee and consequently, the first respondent-University has appointed Dr.T.V. Sujatha Kumari and Dr. G.Pani and declared the same on 21.06.2005. It is, therefore, clear that the petitioner has not been selected and he was not recommended by the Selection Committee.

The prayer in the writ petition is couched in such wide language and the relief has been prayed for in very broad and general terms. Notification No.2/2003 was issued on 10.10.2003. Selections were conducted on 19.06.2005 at which the petitioner has participated. Two of the candidates selected and recommended by the Selection Committee have also been appointed as Assistant Professors by the first respondent-University pursuant to the approval of their selection by the Executive Council of the University on 20.06.2005. Nearly a decade thereafter, the petitioner now seeks innocuous looking direction to constitute a Selection Committee in accordance with the guidelines issued by the University Grants Commission and orders of the State Government contained in their G.O.Ms.No.208 Higher Education (UE.II.I) Department dated 29.06.1999. For the sheer lapse of a decade's time, from the date of holding the selections, this writ petition deserves to be dismissed.

The petitioner has instituted several cases in this Court and has survived all this long based upon one interim order or the other.

W.P.No.13824 of 2005 has been filed by the petitioner seeking a

Writ of Mandamus declaring the action of the respondents in keeping the appointment order of the writ petitioner as Assistant Professor in Department of Public Administration and Human Resource Management of the first respondent-University consequent upon the interviews conducted on 19.06.2005, in pursuance of the Notification No.2 of 2003 dated 10.10.2003 under the guise that the Selection Committee does not consist of Professor and Reader with legal background as illegal, arbitrary, capricious and consequently to direct the University to conduct interviews to the post of Assistant Professor with qualification of Labour Law Ph.D in the Department of Human Resources Management. That writ petition has been dealt with by a Division Bench of this Court. By its judgment dated 16.10.2014, while dismissing the writ petition, this is what has been observed *inter-alia* by the Division Bench.

“It was way back in the year 2002 that a Division Bench of this Court directed the nature of steps, in the context of making appointments. 12 years have elapsed and hardly there is any progress in the matter pertaining to appointment in Public Administration Department, thanks to the institution of writs of one form or the other and the interim orders passed therein. The petitioner availed the benefit extended to him by this Court in W.A.No.783 of 1999 and though at one stage, he was not called for interview, he received an interview call with the interference by this Court. He was also interviewed. He was expected to await the outcome of the selection. However, the petitioner appears to have got the taste of litigation that fetched him standing in the University for more than one and half decades and has filed the writ petition at a stage when the results were to be declared. The prayer in the writ petition itself indicates the uncertainty in the mind of the petitioner. It only reflects his intention to continue in the present position, at any cost. Whatever may be the inclination or desire of the petitioner to get selected, he has to await the outcome of the interview, and if he is not selected, he can certainly ventilate his grievance duly pointing out the defects if any. We do not find any basis to stall the selection process. Equally we do not accede to the request of the petitioner as to the constitution of the Selection Committee. It is needless to mention that the constitution of Selection Committees is governed by the ordinances and other regulations framed by the University. The University has to forthwith declare the results and take further

steps to conclude the selection process.”

(Emphasis is mine)

When once, the Division Bench of this Court dismissed this writ petition (W.P.No.13824 of 2005) rejecting the plea relating to constitution of the Selection Committee and the consequential prayer of the writ petitioner to direct the University to conduct interview once again to the post of Assistant Professor with qualification of Labour Law with Ph.D in the Department of Public Administration and Human Resource Management, the same issue cannot be raised all over again. Realizing this difficulty, the petitioner has tried to cleverly camouflage the main prayer in this writ petition by introducing non-specific University Grants Commission guidelines and the orders of the State Government contained in G.O.Ms.No. 208 Higher Education (UE.II.I) Department dated 29.06.1999. The petitioner with his professed expert knowledge in law ought to have realized that the University Grants Commission guidelines and the guidelines of the State Government contained in G.O.Ms.No.208 Higher Education (UE.II.I) Department dated 29.06.1999 are very much available to him to press into service when W.P.No.13824 of 2005 is decided by this Court on 16.10.2014. Having not chosen to do so, and after losing the said case, he cannot institute the present writ petition for the very same objective/relief. The principle of ought and might enshrined under Explanations IV & V of Section 11 of the Code of Civil Procedure, 1908, which is a salutary principle applicable to even writ proceedings could not have been ignored by him. The general principle underlying the Doctrine of *Res Judicata* is ultimately based on considerations of public policy. One important consideration of public policy is that the decisions pronounced by courts of competent jurisdiction should be final, unless they are modified or reversed by appellate authorities; and the other principle is that no one should be made to face the same kind

of litigation twice over, because such a process would be contrary to considerations of fair play and justice. (See Daryo & Ors. vs [. The State of U.P. & Ors.](#) [1962] 1 SCR 574).

It is also important that, all grounds which are available should be urged at one time and they cannot be urged in a piecemeal or on a deferred hearing basis. So was it with regard to relief available in respect of the same cause of action, as per Order II Rule 2(3) C.P.C.

This apart, the petitioner has also instituted another writ petition W.P.No.17689 of 2005 seeking a *Writ of Mandamus* for declaring the action of the respondents in issuing the order dated 26.07.2005 as illegal and he prayed for a consequential relief to direct the University to continue him in service with regular pay-scale and other emoluments on par with regular lecturers as held in contempt case C.C.No.804 of 2003 and batch. That writ petition has been dealt with by the same Division Bench which dealt with W.P.No.13824 of 2005 and it has dismissed this writ petition also (W.P.No.17689 of 2005) in view of the dismissal of W.P.No.13824 of 2005 by observing nothing remains to be decided in this writ petition.

It is thus very clear that the writ petitioner has been taking recourse to protracted litigation on one pretext or the other with the fond hope that this Court will exercise its compassion and sympathy and would grant one interim direction or the other which can either delay the entire process of selections and or would ensure that the petitioner is continued in service in the first respondent-University as an Assistant Professor on *ad hoc* basis even though he has not been selected by the Selection Committee, by drawing the salary and allowances attached to the said post like any other regular teacher does.

The University in its communication dated 24.03.2015 has clearly brought out that, as against three posts of Assistant Professors notified, the Selection Committee selected and recommended only two candidates and it did not recommend any candidate for the remaining third post meant for open competition. Consequently, the Executive Council of the University approved the selections of those two candidates and notified the same on 21.06.2005. Those two selected candidates were already appointed. They are working on regular basis as Assistant Professors in the same department namely, Department of Public Administration and Human Resource Management of the first respondent-University where the petitioner is also functioning. Thus, the petitioner is thoroughly aware that the selections have been finalized only for two posts and the third post has not been recommended to be filled up. He has been imagining various varieties of reasons for his non-selection, including lack of subject experts of Labour Law in the Selection Committee. Sri R.

Raghunandan, learned Senior Counsel who appeared for the petitioner would urge that, when once there is no subject expert of Labour Law included in the Selection Committee, the selections get vitiated as the Selection Committee could not have assessed the true merit of the writ petitioner. At the very outset, once the Division Bench of this Court rejected the plea relating to composition of the Selection Committee by its judgment in W.P.No.13824 of 2005, no such plea can be urged or raked up once again. further, the Selection Committee is not constituted to select an Assistant Professor of Law, for it to comprise of any Professor who was teaching Law.

In this context, it will be relevant to notice that the notification dated 10.10.2003, which is placed at page no.78 of the additional material paper book filed along with WPMP.No.15510 of 2015, it is

made clear that one post is set apart for Public Administration subject specialization, while one post has been set apart for Human Resource Management, while the third is left open as general subject. That is perhaps, the reason why the University in its order dated 24.03.2015 has averred that the petitioner is in fact not qualified to be considered for the post of Assistant Professor in the Department of Public Administration and Human Resource Management. There is no whisper of a contention urged in that regard.

For all the aforementioned reasons, I, consider that the present writ petition is a clear case of abuse of the process of this Court intended for deriving undue benefit by the petitioner to the detriment of the interests of the University. Hence, I have no hesitation to dismiss this writ petition at the admission stage, with costs quantified at Rs.5,000/- (Rupees Five Thousand Only) payable by the petitioner to the High Court Legal Services Authority within thirty days from the date of receipt of this order.

Writ petition stands dismissed accordingly with costs.

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

JUSTICE NOOTY RAMAMOHANA RAO

30.04.2015
note: LR copy to be marked
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