

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

WRIT PETITION NO.28115 OF 2012

AND

WRIT PETITION NO.28854 OF 2012

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Between:

Gorusu Ramakrishna and four others

...Petitioners

And

The Special Deputy Manager, NTPC Limited, Simhadri Super Thermal Power Project, Simhadri, Paravada mandal, Visakhapatnam and another

...Respondents

DATE OF COMMON JUDGMENT PRONOUNCED: 13.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE R. KANTHA RAO

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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 Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION NO.28115 OF 2012

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COMMON ORDER:

W.P.No. 28115 of 2012 is filed by the petitioners under Article 226 of the Constitution of India seeking a writ of mandamus calling for records pertaining to selection process to the post of Artisan Trainee (Elect.) in pursuance of notification/requisition from employment exchange for land ouster candidates issued in 2010 and direct the respondents to appoint the petitioners as Artisan Trainee (Elec.) in the existing vacancies which were kept unfilled by holding the action of the respondents in not doing so as bad, illegal, arbitrary, irrational, unconstitutional and violative of Article 14 of the Constitution of India .

W.P.No. 28854 of 2012 is filed by the petitioners under Article 226 of the Constitution of India seeking a writ of mandamus calling for records pertaining to selection process to the post of Artisan Trainee (Mechanical) and Diploma Trainee (Elect.) in pursuance of notification/requisition from employment exchange for land ouster candidates issued on 01.04.2010 and direct the respondents to appoint the petitioners as Artisan Trainee (Mechanical) and Diploma Trainee (Elect.) respectively in the existing vacancies which were kept unfilled by holding the action of the respondents in not doing so as bad, illegal, arbitrary, irrational, unconstitutional and violative of Article 14 of the Constitution of India .

Heard the leaned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents.

Learned counsel appearing for the petitioners as well as learned Standing Counsel for the respondents submit that the issue involved in both the writ

petitions is squarely covered by common order, dated 28.08.2012 passed by the learned single Judge of this Court in W.P.Nos.34131 of 2011, 5094 of 2012 and 8064 of 2012 and it is also confirmed by the Division Bench of this Court by common order dated 25-03-2015 in W.A.Nos.1332, 1363 and 1364 of 2012 & W.P.Nos.28135, 28270, 29490, 29514 and 30675 of 2012.

The Division Bench of this Court in its common order, dated 25-03-2015 in W.A.Nos.1332, 1363 and 1364 of 2012 & W.P.Nos.28135, 28270, 29490, 29514 and 30675 of 2012 held as follows:

“Learned single Judge had taken pains to go through the record and after going through the same, observed as follows:

‘It is also to be noticed that the qualifying mark for the written test ranged between 34.44% and 46.66% for general category candidates; 30% and 40% for OBC candidates; 32.22% and 45.55% for SC candidates; 27.77% and 32.22% for ST candidates. However, when it came to the interview, the qualifying mark was 50% for general category candidates and 36% for reservation category candidates. This disparity in the qualifying mark for the written test and the interview is also not explained. Perusal of the actual record of selection reflects that some of the candidates who were found suitable and were provided employment did not secure the reduced qualifying mark in the written test. Yet, they were selected on the basis of the qualifying mark in the interview alone. Further, a cursory glance at the Selection Committee proceedings reflects that the candidates with roll numbers 1203259, 1203099, 1203276, 1203075, 1203195 and 1203004, who had all aspired for the posts of Artisan Trainee (Mechanical) in the OBC category, secured 25 marks in the written test. However, except for the candidate with roll number 1203259, who was given 14 out of 25 marks for the interview, all the others were given marks of 7 and 8 only, whereby they were excluded from the zone of consideration. Similar such instances abound in the Selection Committee proceedings. For instance, the candidate with roll number 1203309 secured 25.83 marks in the written test but was found suitable as he secured 13.5 marks in the interview. However, the candidate with roll number 2203476 who secured 35 marks in the written test failed to attain suitability as he was awarded only 7 marks in the interview. The scope for manipulation and arbitrariness in the interviews is therefore writ large.’

In view of the above, the learned single Judge directed the appellants to consider the respondents for appointment in the available vacancies of the posts to which they aspired for based on their performance in the written test, and we do not find any error in such finding.

We are conscious of the fact that all the respondents belong to land oustee category and they have been waiting for employment for the last fifteen years and they came out successful in the written test. They were denied employment due to fixing of minimum qualifying marks in interview after completion of the written test without notifying the same either in the call letter given to them for interview or earlier. Though the learned Counsel for the appellants submitted that they would consider the cases of respondents for employment, provided they undergo the process of interview, in the facts and circumstances of the case, in view of the sudden change in the policy of fixing of higher marks in the interview and fixing minimum marks giving rise to arbitrariness, we think that such a course of action is not warranted. Since the respondents underwent the process of written test for 90 marks, the direction given by the learned single Judge is proper in the facts of the case.”

Accordingly, both the writ petitions are disposed directing the respondents to consider the case of the petitioners for appointment basing on the marks obtained by them in the written test only on par with the other candidates. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

R.KANTHA RAO,J

Date:13.08.2015

Note:

Furnish C.C. by 17.08.2015.

B/O

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THE HON'BLE SRI JUSTICE R.KANTHA RAO

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