

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 22325 OF 2013

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

The order under challenge in this Writ Petition is the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, Hyderabad, in O.A.No.12986 of 2009. The fifth respondent in the O.A. is the petitioner herein and the first respondent herein is the applicant in the O.A.

The first respondent filed the said O.A questioning the proceedings dated 30.10.2009 issued by the second respondent herein as unconstitutional and contrary to the rules. A provisional seniority list of Lab Technicians Grade-II was prepared on 19.08.2000. The name of the respondent - applicant was shown at Sl.No.29 therein; and the name of the petitioner herein is said not to figure in the said list. The petitioner herein was appointed as Non-Medical Demonstrator. This appointment was sought to be justified before the Tribunal on the ground that, pursuant to the circular issued inviting applications, the petitioner herein had applied for the said post, and the first respondent chose not to.

Rule 2 of the A.P Medical Subordinate Service Rules relates to the appointment of several classes, categories and grades, and prescribes the manner in which appointment is to be made. For Category 5 Clause VI i.e., for the post of Non-Medical Demonstrator, the method of appointment is by direct recruitment or, for special reasons, recruitment by transfer from the A.P. Ministerial Service or the A.P. Medical Subordinate Service or the A.P. Public Health Subordinate Service.

While the normal mode of appointment is by direct recruitment, the Government has been conferred the power, for special reasons, to make recruitment by transfer. The source of appointment to the post of non-medical demonstrator, by recruitment by transfer, is from (1) A.P. Ministerial Service or (2) A.P Medical Subordinate Service or (3) A.P. Public Health Subordinate Service. Though there are three different sources from which appointments can be made on recruitment by transfer, the second respondent appears to have issued a circular dated 29.02.2008

inviting applications for appointment to the post of Non-medical demonstrator. It is not even known to whom the said circular was issued, the manner in which it was published or, for that matter, whether applications were invited from all the three sources or were confined to only employees at Guntur Medical College. The applicant in the O.A, who is the first respondent herein, though senior was denied appointment on the sole ground that she did not submit her application for appointment to the post.

Before the Tribunal, the first respondent-applicant contended that no integrated zonal final seniority list of Lab Technicians was prepared, without which any appointment made to the post of Non Medical Demonstrator was illegal. While the entitlement of the respondent-applicant to be appointed as Non-medical demonstrator in the place of the writ petitioner herein, may have been justified if appointment on recruitment by transfer was confined only to one source, the rules aforementioned require appointment to be made after considering the case of eligible persons in all three sources. The legality of the selection process is itself in doubt. None of these aspects have been considered by the Tribunal, and the first respondent herein has been directed to be appointed, in the place of the petitioner, on the sole ground that she was senior to the petitioner in the provisional seniority list. As the very selection process appears to be contrary to the rules aforementioned, we consider it appropriate to set aside the order under challenge in this writ petition, and remand the matter to the Tribunal for its consideration afresh and in accordance with law. The Tribunal shall examine whether appointment of the petitioner, to the post of Non Medical Demonstrator, is in accordance with the Rules, and whether the action of the second respondent in restricting appointment, only to those who had submitted their applications pursuant to the circular, is valid or not. The Tribunal shall pass orders afresh in the O.A with utmost expedition.

The order of the Tribunal is, accordingly, set aside. The Writ Petition stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

Date: 23.04.2015

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