

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR.JUSTICE B.SIVA SANKARA RAO**

WRIT APPEAL NOS.196 AND 212 OF 2016

COMMON JUDGMENT
(Per Hon'ble Sri Justice Sanjay Kumar)

By common order dated 09.02.2016, a learned Judge dismissed W.P.Nos.14276 and 15109 of 2015. The unsuccessful writ petitioners are in appeal.

The appellants-petitioners are employees of Singareni Collieries Company Limited (for brevity, 'the respondent company'). Notification No.1 of 2015 was floated by the respondent company for filling up various posts by direct recruitment. Forty vacancies in the post of Management Trainee (Personnel), which included 17 vacancies in the post of Welfare Officer (Trainee) notified earlier, were also sought to be filled thereunder. The minimum qualification, experience and maximum age stipulated as against this post was as under:

'Graduates with at least Two Years full-time Post Graduate Degree/P.G. Diploma/Post-Graduate Programme in Management with Specialisation in HR/Industrial Relations & Personal Management or MHRD or MBA Specialization with HR (Major) or Master of Social Work with Specialisation in HR from recognized Indian University/Institutes with minimum 60% marks.

AGE: 30 years as on 01.02.2015. 5 years age relaxation will be allowed to the BC, SC, ST candidates.'

The appellants-petitioners admittedly do not possess two-year full-time post graduate qualification with 60% marks as stipulated and therefore approached this Court by way of the subject writ petitions assailing the prescription of such qualification.

Their contention before the learned Judge was two fold: (1) that the prescription of such qualification was not in keeping with Rule 72 of the Mines Rules, 1955 (for brevity, 'the Rules of 1955'), and (2) that different qualifications were prescribed for internal candidates and therefore, a higher qualification ought not to be insisted upon while allowing such internal candidates to aspire for direct recruitment.

The learned Judge framed two points for consideration:

- (i) 'Whether it is permissible for the employer to prescribe two different qualifications to a post even if recruitment is made from two different modes? and
- (ii) Whether petitioners are otherwise eligible for consideration for recruitment?'

Dealing with the first point, the learned Judge found that the candidates aspiring for direct recruitment and in-service candidates aspiring for the same post by way of promotion formed two different feeder categories and therefore, there was no legal bar to prescription of different qualifications for them, applying the doctrine of reasonable classification. As regards the second point, the learned Judge found that none of the appellants-petitioners fulfilled the prescribed age requirement as they were all over 30 years of age as on 01.02.2015, the relevant cut-off date. The learned Judge held that the qualification prescribed in Rule 72(2) of the Rules of 1955 only fixed the minimum required qualification and was therefore only a guide to the employer to prescribe appropriate qualifications. Consequently, the learned Judge opined that it was open to the respondent company to prescribe a higher qualification than that stipulated in the Rules. It was on these grounds that the learned Judge held against the appellants-petitioners.

Sri G. Vidyasagar, learned senior counsel appearing for the appellants-petitioners, would however contend that the distinction drawn by the learned Judge between direct recruitment candidates and in-service candidates was not justified. He would point out the difference in the qualification prescribed for the two categories and argue that there is no rationale in applying a higher standard when in-service candidates aspire for direct recruitment. He would also rely on the qualification stipulated in Rule 72(2) of the Rules of 1955 in this regard. Learned senior counsel would contend that the qualification prescribed by the respondent company in its recruitment rules titled 'The Singareni Collieries Company Limited Executive Cadre Recruitment Rules', approved by its Board of Directors on 23.04.1990, did not stipulate a

minimum qualification of P.G. course of two-year duration with at least 60% and therefore, the Notification could not go beyond the said Rules. Learned senior counsel would however concede that this aspect of the matter was not raised either in the pleadings or during the course of arguments before the learned Judge.

Having given our earnest consideration to the contentions urged before us, we find ourselves unimpressed. Perusal of the material on record, including the recruitment rules of the respondent company, manifests in no uncertain terms that candidates for direct recruitment and internal candidates formed two independent and separate feeder categories. An internal Circular issued by the respondent company for filling up the post of Welfare Officer (Trainee) from amongst internal candidates, which is placed on record, indicates the minimum qualification prescribed as under:

- ‘A DEGREE
AND
(i) POST GRADUATE DEGREE IN SOCIOLOGY.
(OR)
(ii) POST GRADUATE DEGREE IN SOCIAL SCIENCES
(OR)
(iii) RECOGNISED PG DEGREE/PG DIPLOMA IN LABOUR
WELFARE/PERSONNEL MANAGEMENT/INDUSTRIAL
RELATIONS/HUMAN RESOURCE MANAGEMENT.
AS PER MINES RULES, 1955.
NO AGE BAR.’

This Circular merely replicated the qualification prescribed for recruitment to the post of Welfare Officer (Trainee) by promotion from amongst internal candidates in Schedule I to the Recruitment Rules. Rule 20, in Part II thereof, provides that insofar as the Personnel Department is concerned, 33.33% of the posts are reserved for internal candidates. Further, Rule 23, titled ‘Rules of Recruitment from Internal Candidates’, makes it clear that there is no age bar for such candidates for applying to various posts advertised by the respondent company. However, Rule 4 in Part I of the Recruitment Rules, titled ‘Rules for Recruitment from External Candidates’, stipulates a maximum age of 30 years for direct appointment to the posts, where the qualification

stipulated is Post Graduation. It is not in dispute that the qualification for the post of Management (Trainee)/Welfare Officer (Trainee) is Post Graduation.

The afore-stated facts clearly establish that the respondent company treated external candidates and internal candidates as two separate classes. That being so, the approach of the learned Judge in applying the doctrine of reasonable classification and thereby upholding the prescription of different qualifications is beyond reproach and does not warrant interference. Further, as pointed out by the learned Judge, Rule 72(2) of the Rules of 1955 merely indicates the minimum qualification that is required to be possessed by a Welfare Officer and does not curtail the right of the respondent company to insist upon a higher qualification. As the appellants-petitioners, being internal candidates, were assured a separate reserved percentage of posts by way of promotion but they chose to aspire for direct recruitment, they must necessarily fulfill the requirements prescribed by the respondent company for such recruitment and cannot insist upon the prescription of lesser qualification for internal candidates. Once the appellants-petitioners opted to compete with external candidates for direct recruitment to the post, they cannot claim to be on a different footing and must necessarily fulfill all the prescribed criteria, including the age requirement. Significantly, the age requirement is fully relaxed when it comes to promotion from amongst internal candidates.

Though Sri G. Vidyasagar, learned senior counsel, would contend that the prescription of a minimum two-year duration Post Graduation Course with 60% marks is not prescribed under the Recruitment Rules, we find that this aspect of the matter has neither been raised in the pleadings nor during the course of arguments before the learned Judge. It is therefore too late in the day for the appellants-petitioners to enlarge the scope of this *lis* by raising a new contention at the stage of appeal without foundational pleadings. This aspect of the matter is therefore left open to be addressed if need be as and when occasion arises.

On the afore-stated analysis, we find no grounds to interfere with

the order under appeal.

The writ appeals are accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

**DR.B.SIVA SANKARA RAO,
J**

28th JUNE, 2016
PGS