

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.4761 of 2016

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18.02.2016

Between:

P.Bhavani

..Petitioner

And

The State of Andhra Pradesh,
represented by its Principal Secretary,
General Administration (Ser-A) Department,
Hyderabad and others

..Respondents

Counsel for the petitioner: Mr.G.Vidyasagar, senior counsel
for Smt.K.Udayasri

Counsel for respondent Nos.1 to 3: Government Pleader for Services
(AP)

Counsel for respondent Nos.4 and 5: --

The Court made the following:

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ORDER: (Per CVNR,J)

Feeling aggrieved by the order, dated 20.11.2015, in O.A.No.4081 of 2013 of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), respondent No.4 in the said O.A. filed this writ petition.

2. The brief facts leading to the filing of this case are stated hereunder:

The petitioner as well as respondent No.4 belong to schedule tribe (ST) community. Respondent No.2 issued memo No.F5/12585/01/Vol.IV, dated 19.12.2011, in pursuance of which, respondent No.3 issued call letters, dated 13.04.2012, for filling up of ST backlog vacancy of Laboratory Attender in Government Polytechnic for Women, Bheemunipatnam, Visakhapatnam District. The petitioner as well as respondent No.4 have applied for the said post. As per the extant Rules, a person is eligible for being considered for the said post, if he holds the qualification of SSC and a diploma in the subject concerned (Electrical, Computers, Electronics and Communication) awarded by the State Board of Technical Education and Training, Hyderabad or SSC and I.T.I. certificate in the concerned Trade (Electrical, Computers, Electronics, Radio and T.V.) with one year experience. After considering the relative merits of the petitioner as well as respondent No.4, the petitioner was selected and appointed for the said post. Assailing the said selection, respondent No.4 filed the aforesaid O.A., to which the petitioner was impleaded as respondent No.4. The petitioner failed to appear before the Tribunal. Respondent No.4 has questioned the selection and appointment of the petitioner, mainly on the ground that she has got superior merit, in that she has obtained 76.85% marks in the qualifying academic examination besides having three years experience as against the stipulated period of one year experience, whereas the petitioner has obtained only 65.81% marks in the qualifying academic

examination.

On behalf of the official respondents, a counter-affidavit was filed before the Tribunal, wherein it was averred that respondent No.4 was having only I.T.I. qualification, but not diploma and that she has also submitted unregistered fake experience certificate. The counter-affidavit further averred that as per G.O.Ms.No.214, dated 08.05.2001, selection process shall be made only on the basis of marks obtained in the qualifying academic examinations of the candidates and that as respondent No.4 was not possessing diploma, she was not selected.

Having considered the respective averments of the parties i.e., respondent No.4 as well as the official respondents, the Tribunal has recorded a finding that respondent No.4 possesses qualification of SSC and I.T.I. (Electrician) and also three years experience and hence, she is eligible and qualified to be appointed as Lab Attender. On this premise, the Tribunal has disposed of the aforesaid O.A., *vide* its order, dated 20.11.2015, directing the official respondents to consider the case of respondent No.4 and appoint her to the post of Lab Attender within a period of eight weeks from the date of receipt of a copy of the said order.

3. Mr.G.Vidya Sagar, learned senior counsel representing Smt.K.Udayasri, learned counsel for the petitioner, has strenuously contended that as evident from the minutes, dated 30.04.2012, of the selection committee, 14 candidates with I.T.I. qualification were without any experience and that respondent No.4 is one among them.

4. As could be seen from the aforesaid minutes, the selection committee has not referred to any certificate having been found fake contrary to the stand taken in the counter-affidavit before the Tribunal. The fact that the counter-affidavit referred to the alleged fake certificate shows that respondent No.4 has produced purported experience certificate, which was not considered by the selection committee. On the contrary, the selection committee proceeded on the premise that except

two candidates, viz., the petitioner and one K.Venkata Ramana, all 14 other candidates have not produced any experience certificates. We, however, find that in spite of the stand taken by the official respondents in the counter-affidavit that respondent No.4 has produced fake experience certificate, the Tribunal has not adverted to the said aspect at all and accepted the plea of respondent No.4 that she has three years experience on its face value, without examining as to whether there was any truth in the allegation in the counter-affidavit that the experience certificate relied upon by respondent No.4 was fake. If the experience certificate of respondent No.4 is genuine contrary to the stand taken in the counter-affidavit, the said respondent is entitled to be preferred to the petitioner, as she has secured higher marks in the qualifying academic examination than the petitioner, as prescribed in G.O.Ms.No.214, dated 08.05.2001.

5. Since there appears to be a serious dispute as to the nature of the experience certificate produced by respondent No.4, in particular, to the genuineness or otherwise of the same, we find it appropriate to direct respondent No.2 to get the said certificate produced by respondent No.4 at the time of her selection, examined by an officer not below the rank of the Deputy Commissioner of Technical Education. The said officer shall give notices to respondent No.4 as well as the petitioner and submit a report to respondent No.2. Depending upon the finding of the enquiry officer on the nature of the certificate, respondent No.2 shall take a decision as to who among the petitioner and respondent No.4 is entitled to be appointed as Lab Attender and he shall, accordingly, appoint either of the two candidates. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The learned senior counsel for the petitioner submitted that his client is continuing as Lab Attender. If that be so, she shall be continued as such, till a decision as directed above is taken by respondent No.2.

6. Subject to the above directions, the Writ Petition is disposed of.

7. As a sequel to disposal of the writ petition, W.P.M.P.No.6095 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

18th February, 2016
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