

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE MRS. JUSTICE ANIS
WRIT PETITION NO.37949 OF 2014

ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This writ petition is directed against the order passed by the Andhra Pradesh Administrative Tribunal in O.A.No.2318 of 2011 instituted by this petitioner. The petitioner also sought for a declaration that the action of the first respondent, the Andhra Pradesh Administrative Tribunal in appointing the second respondent against the post of Junior Stenographer through the order of appointment dated 27.12.2010 as illegal. The petitioner also sought for a declaration that he is eligible to be considered for the post of Junior Stenographer in preference to the second respondent herein. The petitioner also sought for a direction to the first respondent Andhra Pradesh Administrative Tribunal to appoint him against the post of Junior Stenographer, which was notified through Notification No.6/2010-Admn dated 30.10.2010 of the first respondent.

Heard Sri J. Sudheer, learned counsel for the petitioner at great length and the learned Government Pleader for General Administration Department. We have also perused the record of selection of the first respondent- Andhra Pradesh Administrative Tribunal.

The Andhra Pradesh Administrative Tribunal, Hyderabad, has taken out Notification No.6/2010-ADMN dated 30.10.2010 inviting applications from eligible candidates for appointment to the posts of Court Master/Personal Secretary (2) numbers, one post of Librarian and two posts of Junior Stenographers. We are concerned in this writ petition only with regard to the selection carried out by the Andhra Pradesh Administrative Tribunal with regard to the two posts of Junior Stenographers. The qualifications prescribed to be possessed by the candidates as on the date of notification are:

1. A Bachelor's degree of a recognized University in India;

2. A pass in English Typewriting Higher Grade;
3. English Shorthand Higher Grade (conducted by the State Board of Technical Education & Training, Government of Andhra Pradesh)

It was however added thereafter as under:

“However, if no candidate with Shorthand Higher Grade is available, persons with Lower Grade are also eligible to apply”

The notification specified that other things being equal, preference will be given to a person who possesses Diploma in Computer Applications and practical knowledge in computer operation. The candidates were required to have attained the age of 18 years and should not have completed the age of 34 years as on 01.04.2007. Paragraph III of the notification detailed the scheme of examination. Insofar as the post of Junior Stenographer is concerned, it is set out that there will be a skill test in Shorthand and Typewriting test (Higher). Insofar as English Shorthand test is concerned, the duration of dictation is notified as under:

@ 80 w.p.m for 7 minutes,
@ 100 w.p.m for 5 minutes,
@ 120 w.p.m for 5 minutes,
for which test, 100 marks are set apart.

English Typewriting test @ 45 w.p.m (Higher) for 10 minutes would be conducted, for which 85 marks are set apart. For interview, 15 marks are set apart. Thereafter, the notification detailed the procedure for selection and preparation of the merit list by setting out that the candidates who qualify in the skill test/written examination by being ranked high, will be called for interview in the ratio of 1:5. The minimum qualification marks for selection are OCs – 40%, BCs – 35%, SC/ST/PH-30% and the last date for receipt of the filled-in applications was set at 5:00 P.M on 25.11.2010.

It is the case of the petitioner that finding him eligible for the post of Junior Stenographer, he was called to appear for the skill test on 18.12.2010 along with other candidates. He appeared for the skill test and he was also directed to appear for an interview test on 22.12.2010. It was the case of the petitioner that the first respondent has notified that once Sri G. Lokeshwara Rao was selected for the open competition vacancy by displaying his name on the notice board. The petitioner has immediately submitted a representation on 23.12.2010 to the first respondent setting out that Sri G. Lokeshwara Rao is not qualified and eligible, as he did not pass the Stenography (Higher Grade) examination. Then the first respondent immediately cancelled the selection of the said Sri G. Lokeshwara Rao. But however, the second respondent was appointed on 27.12.2010. When the petitioner applied for information under the Right to Information Act, on 17.01.2011, the first respondent has furnished the information to a certain extent on 04.02.2011. In that communication dated 04.02.2011, the petitioner was informed that he secured 37.4 marks in the skill test, whereas, he has obtained total marks of 26 in the interview. The question paper for the skill test and the answer sheet of the petitioner are also enclosed. The order of appointment dated 27.12.2010 appointing the second respondent was also enclosed. However, the qualifications of the second respondent have not been furnished on the ground that, that information relates to a third person. It was informed that the second respondent was selected under Open Category, though she belongs to BC-B category. It is in this backdrop, the petitioner instituted O.A.No.2318 of 2011 before the Andhra Pradesh Administrative Tribunal, challenging the correctness of the selections carried out and the appointment of the second respondent. That O.A.No.2318 of 2011 was dismissed by the order dated 21.01.2014, calling in question the correctness of the said order in O.A.No.2318 of 2011 and also for the grant of relief's, noticed supra, the above writ petition came to be instituted.

It was contended before the Tribunal that it was not clear as to whether skill test was evaluated for 100 marks or 85 marks or 185 marks. Similarly,

when the total marks set apart for interview are only 15, how could the Tribunal award 26 marks in interview to the petitioner.

In the counter affidavit filed before the Andhra Pradesh Administrative Tribunal in O.A.No.2318 of 2011, the Registry of the said Tribunal in paragraph 3 has disclosed that while the writ petitioner got 8.6 marks for interview, the second respondent got 9 marks, while Sri G. Lokeshwara Rao got 11 marks. In paragraph 4, it was further submitted that after totaling the marks, final merit list was prepared and in that merit list, Sri G. Lokeshwara Rao was kept at No.1, while the second respondent was placed at No.2 and the writ petitioner was placed at serial No.3 in the merit list. In paragraph 5 of the said counter affidavit, it is submitted that, on verification of the certificates, it was found that Sri G. Lokeshwara Rao did not possess Shorthand Higher Grade qualification, but possessed only Shorthand Intermediate Grade qualification. Hence, his case was not considered for selection. Out of the remaining two candidates, since the second respondent secured more number of marks than the writ petitioner, she was considered and appointed as Junior Stenographer on 27.12.2010.

Since a serious issue is raised with regard to the marks awarded for interview to the petitioner, we consider it appropriate to notice the following statement from the communication dated 04.02.2011 furnishing the information sought for. That communication reads as under:

- “1. a) Marks obtained by Mr. B. Venkata Ramana in the
Skill Test ---37.4
- b) Marks obtained by Mr. B. Venkata Ramana in the
interview --- 26
- (Total number of marks awarded by the Hon'ble
Chairman and two other Hon'ble Members).

From the above, one can easily decipher that 26 marks are awarded, which represent the total number of marks awarded by the Chairman and two other members of the Tribunal who formed the Interview Committee. Obviously, each member upon a careful evaluation of the performance of the

candidates has awarded marks. When the marks awarded by all three of them are put together, it totaled to 26. Hence, it is incorrect for one to contend that, as against the maximum marks of 15 set apart for interview, the petitioner was awarded 26 marks. That is the reason why the counter affidavit, referred to supra by us, disclosed that the marks secured by the petitioner for the interview are treated as 8.6, which reflects that total marks of 26 when divided by 3, it works out to 8.6. Therefore, no infirmity has taken place in the matter of awarding marks for interview to the petitioner.

However, it is important to notice the technical qualifications prescribed in the notification taken out on 30.10.2010 by the first respondent for the post of Junior Stenographer. The first requirement therein was that the candidate should have possessed English Typewriting Higher Grade. There is no dispute on this count. However, the next technical qualification prescribed reads as under:

‘English Shorthand Higher Grade conducted by the State Board of Technical Education and Training, Government of Andhra Pradesh. However, if no candidate with Shorthand Higher Grade is available, persons with Lower Grade are also eligible to apply.’

The expressions used in the notification are, perhaps, imprecise. At the stage of submission of applications, a candidate from the open market would seldom know as to whether candidates with Shorthand Higher Grade have already applied or not. What perhaps the notification dated 30.10.2010 intended was, that candidates possessing Shorthand with Lower Grade are also eligible to apply and their cases will be considered if there are no candidates with Shorthand Higher Grade available. That is how Sri G. Lokeshwara Rao came to apply. He participated in the selection process and ended up in the merit list as well. But however, the first respondent has declared him belatedly as ineligible. This is perhaps where an error appears to have occurred. After the applications are scrutinized, the first respondent would have realized as to whether there are candidates with Shorthand

Higher Grade available for selection or not. At that stage, if they have not subjected Sri G. Lokeshwara Rao to selection process, it would have been unexceptionable. But however, having allowed him to participate in the selection process, he could not have been declared ineligible after he was selected. We leave this question at this stage, as Sri G. Lokeshwara Rao is not before us.

Out of two posts of Junior Stenographer notified, one post is meant for Open Category while the other post is reserved for Backward Class-A Category (Women Candidate). It is not in dispute that the petitioner submitted his application against the Open Category vacancy. The second respondent who incidentally belongs to Backward Class –B Category is equally entitled to apply to the post of Junior Stenographer in Open Category. We have perused the skill test evaluation carried out for selection of Junior Stenographer. Depending upon the number of mistakes committed by the candidates while transcribing the material which has been dictated and also while typing the material that was furnished for such test, marks have been awarded. The second respondent was found to have committed 53 mistakes while the writ petitioner was found to have committed 50 mistakes. Thus, upon a proper and careful evaluation marks have been awarded, by some technical experts. At the end, while Sri G. Lokeshwara Rao was found to have secured 55.2 marks, the writ petitioner got 46.06 marks while the second respondent got 48.95 marks. As was already noticed by us supra, an objection raised by the petitioner herein about the selection of Sri G. Lokeshwara Rao, such selection has been cancelled only on the ground that he did not possess Shorthand Higher Grade Diploma, but only possessed Shorthand Intermediate Grade Diploma. Since, he was not before us, we refrain to express any opinion with regard to his non-selection. Of the remaining two candidates, the writ petitioner secured less marks than the second respondent and hence, the selection of the second respondent and her appointment cannot be challenged by the writ petitioner. We, therefore, do not find any merit in this writ petition and it is accordingly dismissed.

Before we part with this case, we hope that the Andhra Pradesh Administrative Tribunal would be very careful henceforth while prescribing the qualifications for recruitment whenever it is so undertaken and would not leave loose ends behind.

Accordingly, this writ petition stand dismissed. No costs.

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

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

14.03.2016
sp