

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.11533 OF 2011

Dated:29.09.2016

Between:

N. Yohoshuva, S/o. N. Jhon, aged
about 56 years, Occ: Dy. Superintendent
of A.P.S.R.T.C., Adanki, Prakasam District .. Petitioner

AND

APSRTC, rep., by its Vice-Chairman-cum-
Managing Director, Musheerabad,
Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.11533 OF 2011****ORDER:**

By proceedings dated 17.12.2008, the petitioner was temporarily promoted as Deputy Superintendent. By order dated 08.04.2011, the petitioner was informed that in the selections conducted for promotion as Deputy Superintendent, he did not come upto the mark and therefore he was reverted. This order of reversion is under challenge in this Writ Petition.

2. Heard Sri M. Pitchaiah, learned counsel for the petitioner, and Sri P. Durga Prasad, learned Standing Counsel for the respondent – Corporation.

3. The first and foremost submission of learned counsel for the petitioner is that the petitioner being a senior most worker in the cadre of Deputy Superintendent and having good record of service, he could not have been summarily reverted on the ground that he did not come upto the mark and that the order of reversion does not assign reasons for such reversion and therefore the reversion is *ex facie* illegal. He would further submit that how the petitioner was not found to be fit for promotion is not shown and since he has shown good record of service, and he was also given an appreciation letter in the year 2006, holding him not eligible for promotion is *ex facie* illegal. It is also contended that procedure for selection was not notified and the petitioner was not informed of such selection procedure.

4. Having regard to the above submissions, learned Standing Counsel for the respondent – Corporation was directed to produce the proceedings by which the selections were conducted. Learned Standing Counsel produced the proceedings of the Departmental Selection Committee and the material which disclose various parameters. Total marks against which selections were made was 100 and out of the said marks, 50 marks were earmarked for Merit Rating Report (MRR), 25 marks for service, 10 marks for interview, 5 marks for additional qualifications, 5 marks for Rewards/Awards etc., and 5 marks for special achievements/accomplishments as recorded in MRR or P. case. The assessment order produced before this Court would disclose that MRR assessment was made from the years 2005-06 to 2009-10. For each year of assessment, 150 marks were earmarked. Thus, assessment against MRR entries was made to a total of 750 marks. For relevant assessment years, the petitioner secured 408 marks. This, 408 marks against total of 750, is brought down to 50 marks for the over all selections based on average of the total marks and accordingly against MRR column of 50, the petitioner secured 27.20. Against service, the petitioner was given 14 marks and he secured 5 marks in interview. No marks were allotted for additional qualifications, reward and special achievements. Negative marking is also provided for any punishment received and two negative marks were earmarked. In the said manner, the petitioner secured over all 44 marks.

5. The Circular Instructions dated 13.02.1999 also fixed 50 marks a candidate should secure for acquiring eligibility for promotion. As noticed above, in the assessment of the Selection Committee, the petitioner secured 44 marks and therefore he was found as not selected.

6. Learned counsel for the petitioner also vehemently contended that the Circular Instructions, which prescribed the procedure of selection, were never communicated and the petitioner was not aware of the manner of selection.

7. Whether the Circular Instructions were communicated to the petitioner or the petitioner was aware of such instructions is entirely a different issue. However, the procedure of selection is codified and the same has been circulated to all the authorities concerned. The Circular Instructions also marked to the notice Board, to the General Secretary of the National Mazdoor Union, Secretary General of Employees Union, General Secretary of Supervisors Association and General Secretary of Security Staff Welfare Association. Thus, it cannot be said that the Circular Instructions were not furnished and that the petitioner was not aware of procedure of selection. Apart from that and more particularly what is required to be seen is whenever selection is made, such selection has to be guided by proper procedure and selection procedure should be uniform to all the candidates, who participate in the selection. The Circular Instructions directed the appointing authority/selection authority to comply with the parameters of the selections indicated therein. The Minutes of the

Meeting of Selection Committee clearly disclose that the procedure of selection was duly observed and selection list was prepared by following the norms therein. However, it is not in dispute that the petitioner was called for interview and participated in it. One of the modes of selection is to hold interview and 10 marks were allocated for it. The petitioner cannot say that he was not aware of the procedure of the selection having appeared before the interviewing authority and subjected to selection process.

8. Hence, I do not see any illegality in the selection procedure followed. How marks are allocated to each of the parameters and why a lesser mark is allotted to the petitioner cannot be gone into. No re-assessment can be made by the Court in exercise of its power of judicial review. As long as uniform procedure is followed and all candidates were subject to same kind of selection procedure, the Court cannot interfere with the manner in which the selections are made.

9. After going through the material supplied by learned Standing Counsel, learned counsel for the petitioner contended that in the year 2006, the petitioner was given meritorious certificate and in view of the meritorious certificate issued, against column No.24, he was entitled to allocation of marks, whereas no marks were given. This contention was not urged by the petitioner in the Writ Petition and therefore there was no response by the respondent – Corporation. However, even assuming that erroneously marks were not awarded to the petitioner, as seen from the selection procedure, if a person earns any appreciation by

Executive Director, he would earn two marks. Thus, assuming that even if these two marks were allotted, the petitioner would be securing 46 marks i.e., below the cut off marks. Thus, viewing from any angle, the petitioner is not coming within the purview of selection for appointment on regular basis for Deputy Superintendent.

10. The petitioner was initially promoted on temporary basis. Such promotion was subject to review at the discretion of the competent authority. In the instant case, after regular promotions are taken and as the petitioner was not found suitable for promotion, he was reverted. Probably, this reversion was necessitated to give way to the persons, who were suitable for promotion. Since promotion granted was temporary and the petitioner was not found suitable for regular promotion, the impugned action cannot be faulted. Hence, I see no illegality or perversity in the order under challenge and the Writ Petition is liable to be dismissed.

11. The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:29.09.2016

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