

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.21109 of 2015
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ORDER:

The petitioner was appointed as Attender-II in respondent No.5 Office on 01.08.2003 by respondent No.5 as per the recommendations made by respondent No.6 on monthly remuneration of Rs.3,900/-. It was followed by an order of appointment dated 09.02.2009 of respondent No.3. The petitioner passed 10th class in the year 2001. Later on, he completed Intermediate in the year 2004. He also completed C.L.I.S (Certificate in Library and Information Science) in the year 2012 through distance education. He completed B.A. in the year 2014 from Dr. B.R.Ambedkar University. On the basis of recommendation made by respondent No.5, respondent No.3 approved the appointment of petitioner to look after the work of library maintenance in addition to his original duty of Attender. Respondent No.5 issued orders on 10.12.2012 utilising the services of petitioner as Librarian on monthly remuneration of Rs.10,900/- with effect from 10.12.2012. While so, when respondent No.3 issued proceedings on 30.06.2015 terminating the services of the petitioner stating that the petitioner did not possess the requisite qualification of B.A., B.L.S.C. and computer knowledge, the present writ petition was filed challenging the said order of termination.

In the counter affidavit filed by respondent No.4, the fact of appointment of petitioner was not disputed. It was also admitted that the petitioner was appointed as Librarian on 10.12.2012 through the Outsourcing Agency and on verification of the

qualifications, it came to know that the petitioner possessed only Intermediate and Certificate in Library Science, which is not a requisite qualification for the post of Librarian as prescribed by the Commissioner, Backward Classes Welfare Department, Hyderabad, dated 31.10.1999. Accordingly, the services of petitioner were terminated on 30.06.2015.

Learned counsel for the petitioner submitted that as per Rule 5 of the Andhra Pradesh Social Welfare Subordinate Service Rules, 1996, (for short, 'the Rules') the requisite qualification for appointment by direct recruitment for the post of Librarian is a pass in 10th class examination or its equivalent qualification and possessing a Certificate in Library Science issued by any institution recognized by the Government. Learned counsel further submitted that when a similar issue came up for consideration in W.P.No.3272 of 2012, respondent No.1 filed a counter admitting the application of Rule 5 of the Rules to the post of Librarian. He submits that since the petitioner possessed the requisite educational qualification, his services ought not to have been terminated.

Learned Government Pleader submits that in view of the Circular issued by the Commissioner, Backward Classes Welfare Department, Hyderabad, vide his letter dated 31.10.1999, the requisite qualification is a Degree with Bachelor of Library Science and Computer Operating Knowledge and since the petitioner did not possess the said qualification, the order of termination passed by the District Collector was proper.

As per the averments made in the affidavit filed in support of the writ petition and the counter affidavit, it is clear that there is no dispute with regard to the engagement of petitioner as a

Librarian with effect from 10.12.2012. Admittedly, the petitioner possessed Intermediate qualification with Certificate in Library Science. The requisite qualification as per Rule 5 of the Rules is a pass in 10th class and possession of Certificate in Library Science. In the face of such rule, the letter of Commissioner for Backward Classes Welfare Department, Hyderabad dated 31.10.1999 cannot be taken into account, as it cannot operate as an amendment to the Rules framed under Article 309 of the Constitution of India.

In the circumstances, the impugned proceedings, dated 30.06.2015, insofar as the petitioner is concerned, are set aside.

Accordingly, this Writ Petition is allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

07.06.2016

MVA