

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.3383 of 2016

ORDER:

Respondent No.1 issued a notification for filling up of the posts of Junior Lineman on 22.12.2011, but the selection could not be taken due to pendency of the litigation. Hence, another notification was issued on 28.02.2014 inviting applications for filling up of the posts of Junior Lineman in different Circles. As per the said notification, the eligibility is restricted to the persons not below the age of 18 years, but not above the age of 35 years, as on 01.07.2013. The petitioner, whose date of birth is 14.07.1995, applied to the said post and got selected. He was issued an order of appointment also. But, on verification it came to light that he was short of 13 days and hence, an order was passed on 28.10.2015 holding that he is not eligible for the post of Junior Lineman. Challenging the same, the present writ petition was filed.

A counter affidavit is filed on behalf of the respondents stating that pursuant to the notification, 7837 applications were received, including that of the petitioner. Though an order of appointment was issued on 08.08.2014, at the time of verification of the original documents, it was noticed that the petitioner was under aged by 13 days and hence, he was found to be ineligible. When the petitioner submitted a representation dated 07.09.2015 for considering his case, respondent No.3 issued proceedings on 28.10.2015 informing that he is not eligible for recruitment.

Respondents disputed the date of notification as a criteria for the purpose of recruitment and stated that they have been following the A.P.S.E.B. Service Regulations (Part-II), which are in tune with the Andhra Pradesh State and Subordinate Service Rules, 1996 (for short, 'the Rules'). Rule 12(v) of the Rules says that no person shall be eligible for direct recruitment, if he is less than 18 years of age and more than 34 years of age as on 1st July of that year, in which the notification for selection to the relative Post, Category or Class of the service is made.

Heard the learned counsel for petitioner and also learned Standing Counsel for the respondents.

Learned counsel for the petitioner placed reliance on the letter dated 07.06.2006, issued by the Special Chief Secretary to the Government addressed to the Chairperson and Managing Director of A.P.TRANSCO, indicating the reckoning of the date of minimum age and maximum age, shall be as on the date of notification.

The petitioner applied to the post and was interviewed on 02.08.2014. He passed the requisite O & M tests of Pole Climbing, Meter Reading and Cycling conducted by the Superintending Engineer (Operation), Vizianagaram, on the said date. He was selected and an order of appointment was issued. When the petitioner submitted his original certificates on 09.08.2014 along with his joining report, it was noticed that he was under aged by 13 days as on 01.07.2013. But, if the date of notification is taken into consideration, he fulfils the requisite

minimum age. Though it is for the employer to fix a date for the purpose of reckoning the age, it appears that the employer is not following a uniform procedure in that regard. It could be seen from the letter of the Government addressed to the respondents that the Government directed the respondents to take the age as on the date of notification as criteria and in fact, in the earlier recruitment, for the same post, the respondents have taken such date of notification as criteria. In the instant case, strangely the respondents relied on the Rules and fixed 1st July of the year as the relevant date. Though the notification was issued on 28.02.2014, it is common knowledge that the recruitment process would take some time. If the respondents fixed the age as on 28.02.2014 by taking the date as on 01.07.2014, the petitioner would have become eligible. The fixation of 1st July of the past year i.e., 2013 is unreasonable and the petitioner cannot be declared to be ineligible on that ground.

In view of the passing of requisite tests by the petitioner and fulfilling the minimum age as on the date of notification, this Court is inclined to allow the writ petition by setting aside the order of respondent No.3 dated 28.10.2015.

Accordingly, this Writ Petition is allowed setting aside the order of respondent No.3 dated 28.10.2015. As a sequel, the petitioner shall be appointed as a Junior Lineman and report to respondent No.3 within four (4) weeks from the date of receipt of a copy of this order. No order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

24.08.2016

MVA