IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

FRIDAY, THE TWENTY NINTH DAY OF JULY, TWO THOUSAND AND SIXTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

W.P.No.5913 of 2011

Between:

M. Venkatesu, s/o. M. Balaiah, Patturu Village, Khazipet Mandal, YSR Kadapa District.

.. Petitioner

AND

Andhra Pradesh State Road Transport Corporation, Mushirabad, Hyderabad, rep. by its Managing Director and another.

.. Respondents

The Court made the following:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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W.P.No.5913 of 2011

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ORDER

This writ petition is filed praying to grant the following relief;

> "to issue an appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not considering the application of the petitioner for regular appointment to the post of Mechanic/Artisan/Shramik, is arbitrary, unjust, contrary to scheme, discriminatory and in violation of Article 14 and Article 21 of the Constitution of India and direct the respondents to appoint the petitioner to the post of Mechanic/Artisan/Shramik duly according necessary age relaxation as the petitioner had already worked as Corporation Apprentice (Apprentice Mechanic Trainee) in Mydukur depot during the years 1994-96, after due selection by the Selection Committee, was within the age limit prescribed when he was appointed as Corporation Apprentice (Apprentice Mechanic Trainee) in Mydukur depot".

2. Petitioner obtained ITI certificate in Motor Mechanic Trade in July, 1986. He completed his apprenticeship in APSRTC Badwel Depot during the year 1991-92. After being sponsored by the Employment Exchange, he was appointed as Corporation Apprentice on a consolidated pay of Rs.800/- per month. He worked in the said capacity from 09.07.1994 to 08.07.1996. According to petitioner, he was within the age of eligibility when he was originally appointed as Corporation Apprentice and also qualified as eligible and having been appointed by the respondent

Corporation, petitioner ought to have been absorbed. Challenging the inaction in absorbing petitioner, this writ petition is filed.

3. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents-Corporation.

4. Learned counsel for the petitioner submits that having regard to the requirements, the respondent Corporation formulated a scheme of appointment of ITI Certificate holders on apprenticeship basis and after they undergo apprenticeship course, they would be subjected to trade test and on successful completion of the trade test conducted, they would be appointed as Corporation Apprentice and such appointee would be absorbed in due course as against direct recruitment vacancies. He submits that the scheme, which was formulated, is notified vide Circular No.PD-99/1993, dated 23.11.1993 and subsequent Circular No.PD-33/1994 issued on 10.05.1994 also demonstrates resolve of the respondent Corporation to provide in-house training to ITI Certificate holders and on successful completion of their training, to absorb them. He would further submit that this scheme formulated in 1993-94 was in the larger public interest and in the interest of the respondent Corporation. He further submits that the petitioner was trained in such manner. However, when it comes to permanent appointment, though his services were utilized, has successfully undergone the training and is otherwise qualified and eligible, no such benefit was extended to him and he was left in the lurch.

5. Learned counsel for the petitioner fairly submits that in the year 2010, recruitment notification was issued to fill up the posts of Shramik and the petitioner was not considered for said recruitment process on the ground that he was over aged even after taking note of 5 years relaxation granted to Scheduled Caste candidates and that he was not qualified to the post of Shramik. Admittedly, this rejection is not assailed by the petitioner. Petitioner also does not challenge the notification issued in the year 2010 though writ petition is said to have been filed after the notification.

6. According to the learned Standing Counsel, recruitment by the respondent Corporation in consequence to the said notification was completed and all the vacancies were filled up.

7. The only question remains for consideration is whether petitioner is entitled for automatic absorption merely because he was appointed as Corporation Apprentice in accordance with the Circular dated 23.11.1993 and further Circular dated 10.05.1994.

8. Though it is specifically argued, learned counsel for the petitioner does not deny the fact that the recruitment regulations governing the post of Shramik/helper do not envisage any reservation for direct absorption of apprentice/Corporation Apprentice. In the absence of provision in the recruitment regulations, petitioner cannot seek to rely on the Circular issued and contend that he should be automatically absorbed. Further more, on a reading of these two Circulars, it is clear that they

would not contemplate direct absorption. The Circulars only envisage consideration of such apprentices in the direct recruitment vacancies. It would thus mean, the Corporation Apprentices are also entitled to be considered for appointment against direct recruitment vacancies subject to their eligibility and suitability in accordance with the provisions contained in the regulations. As seen from the averments in the counter affidavit filed by the respondents, petitioner was over aged and was not qualified for the post notified. Merely because a person works as apprentice, he cannot seek absorption unless he is otherwise qualified and suitable in accordance with the recruitment regulations. Further, in the instant case, the recruitment notification issued in the year 2010 and the recruitment regulations are not challenged. In the absence of challenge to recruitment notification of the year 2010 and service regulations, the writ petition is not maintainable and no direction can be issued for absorption of the petitioner merely because he worked as a Corporation Apprentice.

9. In **U.P.State Road Transport Corporation v. U.P.Parivahan Nigam Shishukhs Berozgar Sangh**[1] the Supreme Court held that preference should be given to a trained apprentice for appointment, if he is otherwise qualified and similarly situated to other open market candidates. In otherwords, if all things being equal, an apprentice can be preferred. Further apprentice name need not be sponsored from the Employment Exchange. Thus, the prayer as sought for in the writ petition

cannot be granted.

10. The Writ Petition is, accordingly dismissed. At this stage, learned counsel for the petitioner seeks liberty of this Court to avail appropriate remedies as available under law against the petitioner's grievance of treating him as apprentice instead of treating him as regular appointee. It is made clear that dismissal of this writ petition does not come in the way of petitioner working out any other grievance.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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P.NAVEEN RAO, J

29th July, 2016
sj

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[1] (1995)2 SCC 1