

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 28994 of 2014

ORDER: (*Per VRS,J*)

The petitioner has come up with the above writ petition, challenging an order of the Andhra Pradesh Administrative Tribunal, dismissing his claim for appointment as Secondary Grade Teacher, pursuant to the notification issued in DSC-2002.

2. Heard Mr. Siva, learned counsel for the petitioner, and the learned Government Pleader for Services (AP).

3. The State of Andhra Pradesh issued a notification for recruitment of Secondary Grade Teachers way back in 2002. The notification was published on 11.05.2002. The petitioner appeared for selection and secured 77% marks and stood at serial No.190 in the merit list.

4. Unfortunately, the candidates up to serial No.189 were selected and appointed and the petitioner missed very narrowly. When the petitioner made enquiries, he came to know that ten vacancies in DSC-2002 had been reserved for Ex-servicemen. Out of them, four vacancies fell under O.C. (General) category and six vacancies fell under O.C. (Women) category.

5. As to what should be done when the number of posts reserved for Ex-servicemen could not be filled up for want of candidates, it is mentioned in G.O.Ms.No.44, Education (SER.VI) Department, dated 10.05.2002, by which, sub-rule (aa) was inserted under Rule 4 of the Andhra Pradesh School Education Subordinate Services Rules.

It reads as follows:

“In the said rules, in rule 4 after clause (a) the following shall be inserted, namely, “(aa)-2% (Two percent) of posts shall be reserved to the Ex-servicemen in the appointment to any post by direct recruitment and in case, there are no qualified Ex-servicemen candidates, the post shall be filled up by the open category candidates”

6. Therefore, contending that those ten vacancies should have been converted into open category posts and all the posts should have been filled up, the petitioner made representations, suffered an order of rejection on 30.08.2010, and went before the Tribunal in O.A.No.6090 of 2009. The said application was dismissed by the Tribunal, by an order, dated 10.09.2013. Aggrieved by the dismissal of his application, the petitioner is before us.

7. It is true that when vacancies reserved for Ex-servicemen could not be filled up for want of sufficient number of candidates, those vacancies should be filled up by open category candidates, as per the amendment to the Rule made under G.O.Ms.No.44, dated 10.05.2002. It is also true that the notification for recruitment was issued on 11.05.2002, after the amendment came into force.

8. But, it does not mean that the recruiting authority is under compulsion to fill up all posts. If the recruiting authority fills up lesser number of posts than those notified, for whatever reasons, they cannot be compelled to fill up all the posts notified. The law is well settled that the candidate included in the selection list does not get a right to compel the issue of appointment orders, except under certain circumstances. Those circumstances are absent in the case on hand.

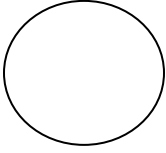
9. Admittedly, three subsequent recruitments have taken place, one in 2003, another in 2006, and third in 2008. Merely because these posts were not even carried over to the next recruitments, the petitioner, who secured marks in the DSC-2002, cannot seek a claim for appointment. Therefore, we find no merits in the writ petition. Hence, it is dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

8th November, 2016
cbs



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