

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.10985 OF 2011

DATED : 17.09.2016

Between :

M.D.Saleem, S/o.M.D.Kaleem,
Age 38 yrs, Occu : Mechanic,
R/o.D.No.10/20, Upstairs, Near Water Tank,
Anjuman Street, Guntakal, Anantapur District.

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Petitioner

And

The Vice Chairman & Managing Director,
A.P.S.R.T.C, Musheerabad, Hyderabad & another.

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Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.10985 of 2011

ORDER :

The petitioner is aggrieved by his non-consideration for selection to the post of Mechanic pursuant to the notification dated 01.11.2010. The grievance of the petitioner is that even though he has secured highest marks and is otherwise suitable and eligible, he was not selected on the ground that he became over aged by the time of the cut off date prescribed in the notification. The petitioner is also aggrieved by not granting weightage of additional marks of 30 for the apprenticeship training undergone by him.

2. When the matter is taken up, learned counsel for the petitioner fairly submits that similar grievance was agitated by the persons working as Shramiks in W.P.Nos.6648 and 10835 of 2011 by placing reliance on the decision of the Hon'ble Supreme Court in ***Steel Authority of India Ltd., and others Vs National Union Waterfront Workers and others***¹. However, the claim is not accepted and writ petitions are dismissed.

3. The issue raised in this writ petition is similar to the issue raised in the said writ petitions. On elaborate consideration of the contentions urged therein, this Court dismissed the writ petitions observing as follows :

“The cut-off date prescribed is sacrosanct. In the instant case, the cut-off date prescribed was the date of the notification and as on the date of notification, admittedly petitioners became over aged. In two decisions relied upon by the learned counsel for respondents, the very same issue was considered and stand of the respondent Corporation was upheld.

¹ (2001) 7 SCC 1

Reading of the above extracted observations would disclose that in case, if a person's appointment was found to be genuine and prohibition notification under Section 10 (1) of the Act, 1970 in respect of the concerned establishment was issued by the appropriate Government prohibiting employment of contract labour in any process, operation or work of any establishment and the principal employer intend to employ regular workmen, he should give preference to the erstwhile contract labour, if otherwise found suitable, taking into consideration age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

In the instant case, it is not brought on record to show that there was abolition of the contract employment in accordance with the provisions of the said Act after appointment of the petitioners. The observations of the Supreme Court in paragraph 125 (6) of STEEL AUTHORITY would apply only in case where such conditions are fulfilled. Thus, said decision does not come to the rescue of the petitioners. At any rate, I am not inclined to grant any relief to the petitioners, since the recruitment process initiated in the year 2010 was finalised long ago and none of the candidates who were selected in pursuance to the recruitment notification are parties to these writ petitions. Unless such selections are set aside, no relief as sought by the petitioners can be granted. Thus, I see no merit in the writ petitions and accordingly the same are dismissed. No costs. Miscellaneous petitions, if any pending, stand dismissed."

4. Having regard to the submissions made and following the earlier decision of this Court, this writ petition is also 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

17th September, 2016
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