

*** HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

+ Writ Petition No. 25997 of 2015

% Dated 27.07.2016

-
P. Sreedhar

...Petitioner

Vs.

**\$ State of Telangana,
Rep. by its Principal Secretary,
General Administration (SC-A) Department,
Secretariat Buildings, Hyderabad and another.**

...Respondents

! Counsel for the Petitioner: Sri A.K. Jayaprakash Rao

^ Counsel for the Respondents: Sri A. Rama Rao

< Gist :

> Head Note:

? Cases Referred:

1. (2008) 7 SCC 11
2. 2015(3) ALT 628 (DB)
3. 1985(3) SCC 721
4. 2015(3) ALT 628(DB)

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

*** * * * ***

Writ Petition No. 25997 of 2015

-

P. Sreedhar

...Petitioner

Vs.

AP State Road Transport Corporation,
Rep. by its Managing Director,
Musheerabad, Hyderabad and another

...Respondents

ORDER PRONOUNCED ON : 27.07.2016

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : YES
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : YES
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : YES
see the fair copy of the Judgment?

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 25997 of 2015

Order:

The first respondent-APSRTC issued a notification for recruitment to the post of Shramik on 23.12.2011. The notification was for 36 posts of Kadapa Region. The petitioner submitted his application for the said post. He is having certificate of ITI in Diesel Mechanic Trade, which is the required qualification for the said post. Besides the same, he studied up to Intermediate and undergone Apprenticeship Training with M/s. Sri Lakshmi Narasimha Automobiles and passed National Trade Certificate during August 1998 to July 1999. He also completed trade certificate in Computer Operation and Programme Assistance. He belongs to BC-B Community. He was aged 29 years 11 months and 11 days and thus he is below the age of 30 years. In response to his application a call letter was sent to him on

04.02.2015. He attended the interview and produced all the certificates. He was provisionally selected for the said post and his name was shown at Sl.No.30. He was informed on 10.03.2015 that he was selected and was directed to undergo medical examination. Accordingly, he had undergone medical examination. He was sent for training by addressing letter dated 30.03.2015 to the Principal, Zonal Staff Training College, APSRTC, Kurnool. He was also sent to the Depot Manager, APSRTC, Rajampet for attending Induction Training at Zonal Workshop, Kadapa, from 28.04.2015 to 30.04.2015. He also underwent training from 06.05.2015 to 18.05.2015 in the office of the Deputy Chief Mechanical Engineer, Kadapa. However, the second respondent issued office order dated 28.07.2015 appointing 35 employees deleting the name of the petitioner without assigning any reason. In view of his selection and training he left the job of Lab Assistant in Mechanical Engineering Department of Srinivasa Institute of Technology and Science, but by virtue of the action of the second respondent he lost the said job as well as the present job. He further states that no reasons were assigned for denying the employment even though he was selected. He submitted his representation on 03.08.2015 and when there was no response he filed the present Writ Petition.

2. A counter affidavit is filed on behalf of the respondents stating that the Chief Manager (Hyderabad) issued a letter on 24.12.2011 sanctioning 36 posts of Shramiks in Kadapa Region and accordingly the process for recruitment was initiated. The qualification mentioned in the Notification is "ITI with Diesel Mechanic Trade". The selection was made giving different marks for qualification, possessing National Apprenticeship Certificate (NAC) and weightage for age. Though the possession of National Apprenticeship Certificate is not mandatory, 10 marks were awarded for those who have possessed the said certificate. During the selection process the petitioner produced two National Trade Certificates, one as Diesel Mechanic and the other as

Computer Operator and Programming Assistant. While verifying the certificates, the selection committee, by mistake, treated one of the National Trade Certificates as National Apprenticeship Certificate and erroneously awarded 10 marks earmarked for National Apprenticeship Certificate. The petitioner was awarded 85.60 marks due to the said mistake and the cut-off marks for selection was 79.80 marks. The petitioner was sent for training along with others pending verification of the antecedents and genuineness of educational, technical qualification certificates, caste certificate etc. At that stage, one K. Mallikarjuna of Rayachoty submitted an application under the Right to Information Act requesting for information on the marks obtained by BC-B candidates who were selected for the post of Shramik. While compiling the information in response to the application under the Right to Information Act, it was noticed that the petitioner was not having National Apprenticeship Certificate. The petitioner vide letter dated 29.05.2015 also admitted that he is not having National Apprenticeship Certificate. If the 10 marks awarded for National Apprenticeship Certificate on mistake are deleted, the petitioner would get only 75.60 marks which is below the cut-off marks of 79.80 marks. Hence, he became ineligible for selection. Accordingly, the letters of appointment were issued to 35 candidates omitting the petitioner. A counseling session was held on 28.07.2015 where the petitioner attended and he was informed orally that his selection was kept in abeyance as there was error in awarding marks. In the notification it was clearly stated that the candidates have to enclose the following certificates along with the application i.e., (1) Date of Birth Certificate, (2) Caste Certificate, (3) ITI Certificate, (4) National Apprenticeship Certificate, (5) Educational Certificate, (6) Residential Certificate etc. The petitioner did not enclose the National Apprenticeship Certificate.

3. The petitioner filed a reply affidavit stating that the notification does not contain the requirement of possession of National

Apprenticeship Certificate except the qualification of ITI with Diesel Mechanic Trade. Hence the reliance of the respondents on National Apprenticeship Certificate for selection was bad. The reply affidavit further states that since the procedure was not mentioned in the notification, the procedure adopted by the respondents is contrary to law. In respect of four persons though they did not possess National Apprenticeship Certificate, they were selected.

4. Learned counsel for the petitioner, by relying on the decisions in **Hemani Malhotra v. High Court of Delhi**^[1] and **P. Murali Mohana Reddy v. State of Andhra Pradesh, Law (LA & J SC.F) Department, rep. by its Chief Secretary**^[2], submitted that in the absence of disclosure of the procedure in the notification, the award of marks under various parameters is bad in law. He further submitted that the respondents cannot adopt a different procedure other than that was mentioned in the notification.

5. Learned Standing Counsel for the respondents-APSRTC submitted that in the absence of the National Apprenticeship Certificate (NAC) the petitioner was not selected as he did not get the required cut-off marks. He further submitted that though the petitioner was selected based on mistaken award of marks, the mistake was later on detected and the letter of appointment was not given to the petitioner after noticing the mistake.

6. In the light of the above rival contentions the point that arises for consideration is whether the procedure adopted by the respondents while selecting the candidates and disqualifying the petitioner is valid.

7. The Notification was issued for filling up of 36 posts of Shramiks in Kadapa Region stipulating the requisite qualification as ITI Diesel Mechanic Trade. However, six (6) documents were asked to be enclosed including the National Apprenticeship Certificate (NAC). As on the date of recruitment, the Circular No.PD-55/2010, dated

21.10.2010, stipulating the method of selection and qualification prescribed for the post was in vogue. As per the said Circular the different marks allocated are as follows.

- (1) Marks obtained in ITI to be weighted down to : 50 marks
- (2) For undergoing Apprenticeship : 30 marks
- (3) Weightage marks : 20 marks

TOTAL:	
	100 marks

The weightage marks were calculated based on the date of completion of 19 years of age by 1st July of the recruitment year or date of passing ITI whichever is later subject to a maximum of 20 marks, allocating one mark for each year of completion. The said circular was modified by Circular No.PD-17/2014, dated 26.05.2014, as per which the marks were revised by allocating 70 marks to ITI, 10 marks for possessing National Apprenticeship Certificate and 20 marks to age. Thus, there is change in allocation of marks to National Apprenticeship Certificate from 30 to 10. The notification was issued on 23.12.2011 and the selected list was published in March 2015. Though the respondents should have applied the Circular PD-55/2010 which was in vogue as on the date of notification, even assuming that the circular is applicable, applied the latter circular dated 26.05.2014. Thus the application of latter circular to the earlier notification is bad. This Court is of the opinion that the allocation of marks for different parameters without indicating the said process in the notification is bad in law. The process adopted is also irregular as it is contrary to the notification. The notification prescribes the qualification of "ITI in Diesel Mechanic Trade" as the only eligibility qualification and it does not provide for compulsory possession of National Apprenticeship Certificate. Hence, the preparation of merit list based on the possession or otherwise of National Apprenticeship Certificate is irregular. There cannot be a different procedure other than the procedure indicated in the notification. This was clearly held in a

decision reported in **Umesh Chandra Shukla v. Union of India**^[3], which was followed by this Court in **P. Murali Mohan Reddy v. State of Andhra Pradesh**^[4]. Accordingly, it is held that the award of marks under different heads and preparation of merit list on that basis without informing the candidates through the advertisement issued at the time of inviting applications is contrary to law.

8. However, coming to the relief to be granted to the petitioner, it is noticed that out of 36 candidates, who were selected, four (4) candidates including the petitioner were selected under the category BC-B. The number of posts reserved for each category were not notified at the time of initial recruitment and this is another irregularity in the selection process. But, since the same is not challenged, this Court is not inclined to examine that point in detail. However, the three other candidates selected under BC-B category possessed National Apprenticeship Certificate as could be seen from the merit list produced before this Court. If we omit the National Apprenticeship Certificate from consideration and 10 marks allocated towards the same, the marks obtained by the candidates are as follows.

Sl.No.	Call Letter No.	Name of the Candidate	Marks obtained	Selected/not selected
1.	407	P. Sreedhar	75.6	Included in merit list but not appointed
2.	82	P. Gurunadham	71.0	Selected
3.	33	B. Venkata Subba Rayudu	70.80	Selected
4.	341	G. Venkateswarlu	80.80	Not selected
5.	161	T.Venkata Narayana	69.80	Selected
6.	391	K. Mallikarjuna	69.30	Not selected
7.	98	U.Rama Narayana	69.20	Not selected
8.	865	B.Venkata Narayana	68.90	Not selected

There are five other candidates belonging to BC-B Community whose names found place in the selection list but not selected and their names are omitted for the purpose of present consideration.

9. Now the authorities have not selected the petitioner consequent to the notice of mistake on the application of K. Mallikarjuna and did not select the petitioner though he got 75.60 marks after omitting the National Apprenticeship Certificate, but selected T. Venkata Narayana by taking National Apprenticeship Certificate and calculated the marks as 79.80. I have already held that National Apprenticeship Certificate is not the essential qualification and by omitting 10 marks allocated to it,

T. Venkata Narayana would get only 69.80 marks, but in between there is another candidate by name G. Venkateswarlu, whose call letter number is 341, who did not possess National Apprenticeship Certificate, but he got 80.80 marks and he was not selected solely on the ground that he did not possess National Apprenticeship Certificate. It is clear from the above that the respondents have taken the National Apprenticeship Certificate as an essential and requisite qualification and disqualified G. Venkateswarlu even though he got 80.80 marks, but selected T. Venkata Narayana who got 79.80 marks only on the ground that the latter possessed National Apprenticeship Certificate, ignoring the merit. Even if some weightage is given to National Apprenticeship Certificate, the selection of T. Venkata Narayana in preference to G. Venkateswarlu is clearly illegal. After noticing the mistake, if any, consequent to the information sought under the Right to Information Act, the respondents should have rectified their mistake and should not have stopped by not selecting the petitioner but should have given appointment to the said G. Venkateswarlu who got 80.80 marks in the merit list. Since the said G. Venkateswarlu is not before this Court, this Court is not in a position to grant any relief to him, but however it is open to the authorities to issue a letter of appointment to him, since he is more meritorious candidate

than T. Venkata Narayana.

10. So far as the petitioner is concerned, no relief can be claimed by the petitioner in the absence of making the said T. Venkata Narayana as a party to the present Writ Petition, though the latter got lesser marks than the petitioner and granting relief in favour of the petitioner would affect him. The petitioner having got the requisite information by the date of filing the Writ Petition should have done the exercise of comparing the merit of the candidates and impleaded the said T. Venkata Narayana as a party respondent to the present Writ Petition. Having failed in that attempt, no relief can be granted in favour of the petitioner, though this Court noticed that the selection procedure adopted by the respondents is totally illegal, as it would affect 35 selected candidates who have been working for the last one year. Consequently, the Writ Petition is liable to be dismissed and is, accordingly, dismissed. There shall be no order as to costs.

11. As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.

Date: 27th July 2016
Nsr

RAMALINGESWARA RAO, J

[\[1\]](#) (2008) 7 SCC 11

[\[2\]](#) 2015(3) ALT 628 (DB)

[\[3\]](#) 1985(3) SCC 721

[\[4\]](#) 2015 (3) ALT 628 (DB)