

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.32751 OF 2017

ORDER:

It is the case of the petitioner that he was provisionally selected for the post of Stipendiary Cadet Trainee Police Constable (SCT)(AR) (Men & Women) in Police Department and he was issued show cause notice dated 03.05.2017 stating that the petitioner has submitted fake driving licence thereby called upon the petitioner to submit explanation as to why his provisional selection to the post of SCT PC AR (Men), Khammam, should not be cancelled as per Rules. Petitioner submitted explanation on 03.05.2017. Without considering the same, impugned proceedings were issued cancelling the provisional selection of the petitioner. Aggrieved by the same present writ petition is filed.

Learned counsel for the petitioner submits that the petitioner has not produced any fake certificate or licence. In fact, petitioner has LMV licence as well as HMV licence. It is also stated that even if the marks allotted in respect of HMV licence i.e '6' marks is deleted from the marks obtained by him in the final written test, the petitioner will get 91.25 (97.25 – 6) and that still the petitioner will be within the cutoff marks and is eligible for selection, as last candidate in respect of Home Guards under OC category who was selected has obtained only 85.25 marks. He also submits that the petitioner is having LMV licence and is entitled for 5 marks of weightage as per the notification.

Heard learned Assistant Government Pleader for Service submits that though the petitioner is having HMV licence since he did not possess the same continuously for one year as on the date of notification, he is not entitled for awarding 6 marks of weightage.

In this case the ground on which the 1st respondent issued show cause notice is that the petitioner mentioned in the online application that he is having HMV licence though he did not possess the same continuously for one year as on the date of notification. On the sole ground the respondents cannot cancel the provisional selection of the petitioner. Because, the petitioner is eligible to award 5 marks as he is having LMV licence continuously for a period of more than five years as on the date of notification, more so, as last candidate in respect of Home Guards under OC category who was selected has obtained only 85.25 marks. In that view of the matter even if the weightage marks for possessing HMV licence are not added, still the petitioner will be within the cutoff marks. The stand taken by the 1st respondent in the show cause notice is different from that of the stand taken in the impugned order. It is almost inconsistent. In view of the aforesaid facts and circumstances the impugned order is liable to be set aside.

Accordingly, the impugned orders dated 28.07.2017 passed by the 1st respondent vide Memo Rc.No.76/Rectt./Genl.1/2017 and the orders of the 3rd respondent in C.No.100/A1/PCs-Rect/2016-17, C.O.O.No.1278/2017 dated 08/092017, in so far as the petitioner is concerned, are set aside. The 1st respondent has also

admitted that petitioner is having LMV licence and it is not the case of petitioner that he is claiming award of marks on the basis of HMV licence. Obviously petitioner cannot claim the same, since he did not possess the same continuously for one year as on the date of notification. In view of the same, the 1st respondent is directed to award marks to the petitioner for LMV licence only and take further action accordingly, in accordance with Law.

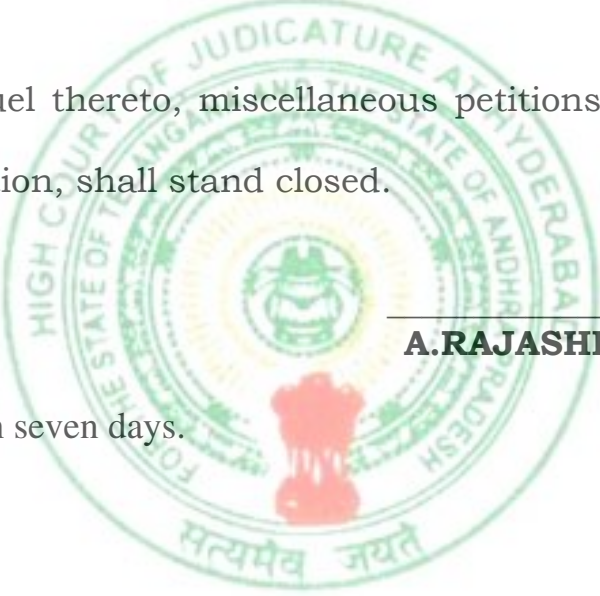
The writ petition is allowed to the extent indicated above. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

03.10.2017

Note: Issue CC in seven days.

B/o.t k.



A.RAJASHEKER REDDY, J