

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

WRIT PETITION No.21777 of 2016

ORDER: (Per Justice Sanjay Kumar)

The petitioner is the applicant in O.A.No.340 of 2014 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The said O.A. was dismissed by the Tribunal, vide order dated 08.10.2015.

The prayer of the petitioner before the Tribunal was to declare the action of the authorities in not awarding weightage marks to him for his contract service in Arogyasri Health Care Trust and in rejecting his legitimate claim for appointment as a Civil Assistant Surgeon pursuant to the notification bearing No.1/2013 dated 31.08.2013 as illegal. He further claimed that other individuals similarly situated were granted the benefit of such weightage marks but he was denied. The stand of the authorities before the Tribunal, as is evident from their counter-affidavit, was that the petitioner failed to submit his contract service certificate along with his application within time and therefore he was denied the benefit of weightage marks towards such contract service. It was however admitted that one Dr.Asritha Reddy and one Dr. Ega Vineeth Kumar, who also rendered similar contract service in Arogyasri Health Care Trust on par with the petitioner, were given the benefit of weightage marks as they submitted their certificates along with their applications within time.

Perusal of the notification dated 31.08.2013 reflects that the authorities indicated therein that weightage up to 15 marks would be given for contract service at the rate of 2.5 marks for every six months in tribal areas, 2 marks for every six months in rural areas and 1 mark for every six months in urban areas. The notification also made it clear that

applications submitted without the required certificates and incomplete applications would be rejected summarily. This aspect of the matter is clear.

It appears that the authorities were not certain as to whether the contract service rendered in Arogyasri Health Care Trust should be taken into account for granting weightage marks. The Government was therefore addressed for necessary clarification in this regard. It was only under Memo dated 30.09.2013 that the Government issued a clarification to the Commissioner of Health and Family Welfare, Andhra Pradesh, that weightage should be given to Medical Officers working in the Arogyasri Health Care Trust during the recruitment of Civil Assistant Surgeons/Dental Assistant Surgeons. Significantly, this clarification was given only one day before the last date for submission of applications. The petitioner submitted his application on 28.09.2013. At that point of time, the authorities themselves were not clear as to whether his contract service in Arogyasri Health Care Trust would count for giving weightage in the subject recruitment. It is also an admitted fact that the petitioner furnished his contract service certificate from the Arogyasri Health Care Trust on 05.10.2013. That being so, the authorities were not justified in excluding his case from consideration on the short ground that his application was incomplete as he failed to submit the aforesaid certificate.

In the light of the peculiar facts and circumstances obtaining, where the authorities themselves were unsure as to the status of the contract service rendered by the Medical Officers in Arogyasri Health Care Trust, they could not have insisted upon adherence to the last date for submission of applications with all certificates i.e. 01.10.2013 when the

clarification in this regard was issued only on 30.09.2013. In so far as the petitioner is concerned, he submitted the requisite certificate shortly thereafter on 05.10.2013 at the stage when the selection process was yet to begin.

In that view of the matter, we are of the opinion that the Tribunal ought not to have come up with a new issue which was not even put forth by the authorities in their counter to the effect that the post of Deputy Executive Officer on contract basis in Arogyasri Health Care Trust does not qualify as a Medical Officer's post. This was never the stand taken by the authorities and it was not for the Tribunal to come up with this new issue. Unfortunately, the Tribunal did not even address the aspects discussed supra which clearly indicate that the petitioner was unjustly denied consideration.

The writ petition is accordingly allowed. The respondent authorities shall grant the benefit of weightage marks to the petitioner for the contract service rendered by him in Arogyasri Health Care Trust and in the event he comes within the zone of consideration for selection to the post of Civil Assistant Surgeon, the authorities shall appoint him to the said post.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

ANIS, J

23rd February, 2017.
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