

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.4145 OF 2010

DATED : 31.10.2017

Between :

Rupani Renuka D/o.Mallaiah,
Aged about 28 yrs, Occu : Private Employee,
R/o.C/o.Rupani Ramulamma, H.No.5-11-49,
23 Ward, A.R.Nagar, Mushampally Road,
Nalgonda, Nalgonda District

.. Petitioner

And

The Director of Health,
Andhra Pradesh, Hyderabad & others.

Respondents



This court made the following :

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ORDER :

Heard.

2. On 13.07.2009, a recruitment notification was issued to recruit on contract basis to the posts of Eye Donation Counselors and Para Medical Ophthalmic Officer. Petitioner claims to have competed for the two posts of Para Medical Ophthalmic Officer. Selections were made and finalised. In the selections conducted petitioner secured 54.4% marks. Four names were included in the selection list and the recruitment notification was for two posts. One meant for open competition and the other to be filled up by the candidate belonging to BC-A category. There were two BC-A candidates and petitioner was standing second in the merit against BC-A vacancy. There were two other candidates one is Scheduled Caste and the other belongs to BC-D category. Both of them have secured more merit than the BC-A category candidates.

3. While so, a news item was published in the daily newspaper dated 03.01.2010 as a purported reference to the statement given by the District Medical and Health Officer that fresh recruitment is being initiated to fill up the very same post for which selections were conducted. Challenging the decision to hold fresh selections and not appointing the petitioner in pursuant to the recruitment notification dated 13.07.2009, this writ petition is filed.

4. To complete the narration, it is also appropriate to notice that recruitment notification was for appointment on contract basis.

5. Learned counsel for the petitioner submits that petitioner was number “2” in the merit list for BC-A category vacancy and in the event of not appointing the first meritorious candidate, petitioner could have been appointed. Therefore, petitioner is entitled to challenge the cancellation of selection process and initiation of fresh selection process.

6. Learned counsel further submits that cancellation of entire selection process amounts to arbitrary exercise of power and by such action, the legitimate expectation of the petitioner to secure public employment was deprived without any justification. Therefore, the same is illegal.

7. To appreciate this contention, two aspects are required to be noticed. Firstly, the recruitment notification was for appointment on contract basis issued on 13.07.2009 and at the instance of the petitioner, this Court, by order dated 24.02.2010, suspended the subsequent recruitment notification dated 03.01.2010. Petitioner has not stated as to whether the earlier notification was given effect to and appointments were made. If no appointments were made, no direction for appointment on contract basis can be issued after seven long years. Secondly, there were two vacancies notified in the recruitment notification dated 13.07.2009. One is reserved for BC-A category and the other was for open competition. The merit list relied upon by the petitioner contains four names. According to this merit list, petitioner secured fourth placement in

the overall merit and was number “2” in the list of candidates belonging to BC-A category. Thus, even assuming the earlier selection requires to be given effect to a person who can be appointed against BC-A vacancy was the first meritorious candidate and not the petitioner. This case is at the stage of annulling selection process. Thus, it cannot be assumed at this stage that the first selected candidate would not opt for appointment and that in the event of first selected candidate not opting for appointment against BC-A category vacancy petitioner would be entitled for such appointment and is presumptive and on that presumption/assumption, no relief, as sought for, can be granted and on that presumption, it cannot be held that not appointing the petitioner amounts to arbitrary exercise of power, to grant the relief in favour of the petitioner.

8. Thus, the writ petition deserves to be dismissed and is, accordingly, dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

31st October 2017
Rds

P.NAVEEN RAO,J