

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION NOS.35143 AND 36901 OF 2015

C O M M O N O R D E R
(Per Sri Justice Sanjay Kumar)

O.A.Nos.4532 and 4534 of 2015 were filed before the Andhra Pradesh Administrative Tribunal, Hyderabad, by E.Indira and P.Jayasree respectively assailing the action of the authorities in denying them 5 weightage marks for possessing Balasevika training while considering their candidature for recruitment to the posts of Supervisor Grade-II in the Women Development and Child Welfare Department of the State. Consequential directions were sought to the authorities to add 5 weightage marks and to consider their cases for notional appointment to the said posts from the date on which candidates who secured lesser marks than them were appointed, along with consequential benefits.

In its common order dated 16.09.2015 passed in the O.As, the Tribunal observed that E.Indira had tick marked 'Yes' and struck off 'No' against Column 10 of the application form, relating to Balasevika training, and had also specifically noted 'enclosed' as against Column 10(i), but P.Jayasree merely tick marked 'Yes' and struck off 'No' against Column 10 but did not state that she had enclosed the certificate. On this ground, the Tribunal held that P.Jayasree was not entitled to relief but directed the authorities to accommodate E.Indira in the selection list for appointment as a Supervisor/Extension Officer Grade-II and issue her an appointment order within a time frame. Aggrieved by the denial of relief to her, P.Jayasree filed W.P.No.35143 of 2015 while the

authorities filed W.P.No.36901 of 2015 challenging the said common order in so far as it granted relief to E.Indira.

By order dated 16.11.2015 passed in W.P.No.36901 of 2015, this Court granted interim suspension of the order under challenge in so far as it related to E.Indira for a period of three weeks. However, the said interim order was not extended thereafter.

Heard the learned Government Pleader for Services (Andhra Pradesh) appearing for the authorities, Sri Vedula Srinivas, learned counsel for P.Jayasree, and Sri P.Lakshmana Rao, learned counsel appearing for E.Indira.

The Regional Joint Director, Women Development and Child Welfare Department, Kurnool, issued notification dated 02.07.2013 calling for applications for recruitment to the posts of Supervisor Grade-II (Extension Officer Grade-II). The selection was to be made on the basis of a written examination for 45 marks. Separately, 5 weightage marks were to be allowed to candidates who possessed Balasevika training. The written examination was conducted on 27.10.2013 and the final selection list was approved by the District Collector, Kurnool, on 09.11.2013. Of the notified 244 vacancies in the posts of Supervisor Grade-II, 211 posts were filled. Out of 52 Supervisors Grade-II working on contract basis, 30 could not be selected and are still being continued on the same basis. E.Indira and P.Jayasree were amongst those contractual Supervisors Grade-II who were not selected as they did not come within the zone of consideration and are still continuing in the posts as on date on contract basis.

The Regional Deputy Director Women Development and Child Welfare Department, Kurnool, asserted in the pleadings filed

in these writ petitions that neither E.Indira nor P.Jayasree enclosed their Balasevika training certificates with their applications. It is on this ground that she justified denial of weightage marks to them for possessing Balasevika training.

Pertinently, E.Indira secured 27.5 marks in the written test, while P.Jayasree secured 24.875 marks. Had they been given 5 weightage marks for their Balasevika training, their total marks would have been 32.50 and 29.875 respectively. It is not in dispute that the last candidate selected for recruitment to this post secured 28.5 marks. That being so, both these candidates would have figured in the zone of consideration had they been given the weightage marks.

The learned Government Pleader was directed to produce the original applications of both the candidates. Accordingly, the same were placed on record. Perusal of the original application of E.Indira indicates that she specifically tick marked (✓) the word 'Yes' and struck off the word 'No' against Column 10 – 'Balasevika Trained'. Thereunder, Column 10(i) reads as under:-

"If Yes attested Xerox copy of Certificate to be enclosed."

Against this, E.Indira wrote the word 'Enclosed'.

P.Jayasree also tick marked the word 'Yes' with (✓) and struck off the word 'No' against Column 10 – 'Balasevika Trained'. She however did not write anything against Column 10(i). This was the distinguishing factor on the basis of which the Tribunal granted relief to E.Indira and denied P.Jayasree.

This reasoning of the Tribunal however does not withstand scrutiny for the following reason:

The application form manifests that Column 5, relating to date of birth and age, also states 'xerox copy to be enclosed'. Similarly, as regards educational qualifications, date of entry into service and caste, similar statements are made to the effect that certificates are to be enclosed. Against none of these columns did either E.Indira or P.Jayasree say 'enclosed'. It is however not in dispute that all these other certificates were submitted by them along with their application forms. That being so, the mention or otherwise of the word 'enclosed' only against Column 10(i) would not be sufficient in itself to hold that E.Indira submitted the Balasevika training certificate and P.Jayasree did not.

Learned Government Pleader does not dispute the fact that both the ladies did, in fact, possess Balasevika training. She also concedes that they are both continuing in the subject posts on contractual basis and vacancies, as notified, are still in existence.

The original applications placed before this Court also reflect that the application papers were stapled/restapled several times as is evident from the multiple puncture marks on the left hand top corners. This Court therefore cannot conclude that the applications, now produced, have not been tampered with. There is every possibility that the application papers were detached, perhaps for the sake of verification, and that is the reason why they had to be stapled/restapled so many times.

The very object of undertaking this selection by giving 5 weightage marks to those candidates who had Balasevika training indicates that such candidates were to be given a preference. When it is not in dispute that E.Indira and P.Jayasree both underwent Balasevika training, it would indeed be hyper-technical to deny

them the benefit thereof on the ground that they failed to furnish the certificates at the relevant point of time, even if true. This Court also finds it hard to believe that having tick marked the word 'Yes' in relation to Balasevika training, they would have failed to furnish the certificates in proof thereof. It appears that the applications along with certificates were submitted by these candidates, who were working on contractual basis, through the proper channel and there is every possibility of the certificates having been misplaced. This possibility gains credence as stapling/restapling of these applications indicates that the papers were taken apart and were stapled more than once.

Given the totality of the above circumstances, this Court is of the opinion that the stand of the authorities that E.Indira and P.Jayasree were not entitled to regular appointment on the sole ground that they did not produce the Balasevika training certificates is merely procedural and not worthy of consideration.

The respondent authorities are accordingly directed to re-evaluate the candidature of P.Jayasree by giving her 5 weightage marks for Balasevika training and if she is otherwise found to be eligible, she shall be appointed to the post of Supervisor/Extension Officer Grade-II in the Women Development and Child Welfare Department, Kurnool Region, with effect from the date on which a candidate who secured lesser marks than her was appointed, along with consequential benefits. Similarly, E.Indira's candidature shall also be considered by giving her the benefit of 5 weightage marks for Balasevika training and if she is otherwise found to be eligible, she shall also be appointed to the said post with effect from the date on which a candidate who secured lesser marks than her was

appointed, along with consequential benefits. This exercise shall be completed expeditiously and, in any event, not later than four weeks from the date of receipt of a copy of this order.

In the result, W.P.No.35143 of 2015 is allowed and W.P.No.36901 of 2015 is dismissed.

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

SANJAY KUMAR, J.

2nd FEBRUARY, 2017.

PGS

N.BALAYOGI, J

