

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
&
THE HON'BLE SMT JUSTICE T. RAJANI

WRIT PETITION No.24806 of 2017

DATED: 31.07.2017

Between

S.M. Saifullah.

...PETITIONER

And

The Registrar General,
High Court of Judicature at Hyderabad.

...RESPONDENT

COUNSEL FOR THE PETITIONER: MR. J. SRIDHAR

COUNSEL FOR THE RESPONDENT: SMT. BOBBA VIJAYA LAKSHMI



THE COURT MADE THE FOLLOWING:

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
&
THE HON'BLE SMT JUSTICE T. RAJANI

WRIT PETITION No.24806 of 2017

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

The petitioner, who is a practitioner of law, has come up with the above writ petition challenging the notification dated 18.07.2017 issued by the respondent inviting applications for appointment of fresh law graduates as Law Clerks on contract basis for a period of one year, to assist the Hon'ble Judges of this Court.

2. Heard Mr. J. Sridhar, learned counsel for the petitioner and Smt. Bobba Vijaya Lakshmi, learned counsel for the respondent.

3. On the basis of the recommendations made by a Committee constituted for the purpose, which was accepted by the Administrative Committee of this Court, the Registrar General addressed a letter dated 15.03.2017, requesting the Government to accept the scheme for the appointment of Law Clerks to assist the Hon'ble Judges of this Court. The Government accepted the recommendation and issued G.O.Ms.No.45 Law (LA, LA& J – Home Courts.B) Department dated 15.06.2017.

4. As per the said notification, a candidate will be eligible to be engaged as a Law Clerk if the candidate had acquired a decree in law from a recognised university, having studied a 5 year regular stream after completion of 10+2 year of schooling. The notification also indicated that a person who has already enrolled himself as an Advocate will not be entitled to apply.

5. Aggrieved by these two conditions, the petitioner has come up with the above writ petition contending (1) that it is discriminatory to keep away persons who have acquired a 3 year degree in law after completing a 3 year degree in any other course of study and (2) that the bar for those who have already enrolled as advocates, do not go well with certain other terms and conditions found in the notification.

6. We have carefully considered the above submissions.

7. In particular, the challenge is to clauses (i) and (iv) of para 5 of the notification issued in G.O.Ms.No.45 dated 15.06.2017.

These prescriptions read as follows:

“5. Eligibility Criteria: A candidate will be treated as eligible to be engaged as a Law Clerk provided he/she satisfies the following criteria:

(i) The Candidate should have acquired a Degree in Law from a recognized University, having studied a 5-year regular stream after completion of 10+2 years of schooling.

(ii) ...

(iii) ...

(iv) The Candidate should not have enrolled as an Advocate in any of the State Bar Councils.”

8. Insofar as the challenge to the first prescription is concerned, the claim of the petitioner is that a person who had acquired a 3 year degree in law, is in no way different from a person, who has studied a 5 year degree in law, insofar eligibility for employment or for enrolment is concerned. Therefore, the contention of the petitioner is that the discrimination is hostile offending Article 14 of the Constitution of India.

9. The notification issued by the High Court at Madras is also placed before us. In the said notification, persons who had acquired a 3 year degree in law in a regular stream, after completion of a 3 year degree in any other subject preceded by 10+2 years of schooling, have been treated as eligible for applying for the post of law clerk. Therefore, we do not see any reason as to why they should be excluded.

10. But, at the same time, it should be remembered that persons who had completed a 3 year law degree, through distance mode, who are not eligible to get enrolled in the bar council, cannot apply for the post of law clerks. There are lot of institutions which offer 3 year law degrees, without the candidates having to strain themselves by attending classes and writing examination. The object of appointment of fresh law graduates as law clerks was not intended to provide employment, but to provide an opportunity to fresh law graduates to hone their skills. Therefore, the first contention relating to the exclusion of holders of 3 year degree in law is upheld with a caveat.

11. Insofar as the second contention is concerned, the prohibition of candidates, who have already enrolled as advocates, is based upon a sound reasoning. A candidate, who is already enrolled, may have commitments to his clients. The engagement of a person as a law clerk, would involve the exposure of such candidates to confidential matters, both on the administrative side and on the judicial side. Therefore, any conflict of interest that a practising lawyer may have in such circumstances, was sought to be avoided by providing the

prescription in para 5(iv) of the notification. Hence, we do not think that the second objection can be upheld.

12. In view of the above, the writ petition is partly allowed, directing the respondent to treat persons, who have studied regular 10+2 years of schooling followed by 3 years of regular curriculum in a decree course before taking a 3 year regular law degree from a college affiliated to a recognized University, as eligible to apply for the post of Law Clerk subject to his satisfying other criteria found in the notification. The Registry may issue a corrigendum to the notification uploaded in the web portal so that the candidates, who are now eligible by virtue of this order, are made aware of this order. If the Registry feels that it is necessary to extend the last date for filing the applications, it is also open to them to do so.

Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

T. RAJANI, J

July 31, 2017

Note: Furnish C.C. of the order by 01.08.2017
(B/o) DSK