

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.18974 of 2008

ORDER:

The grievance of the writ petitioner in this writ petition, under Article 226 of the Constitution of India, is in regard to non consideration of his candidature for appointment to the post of Glass Blower pursuant to the notification, dated 28.03.2002, *vide* notification No.NU/ Estt-TS/ SC/ ST Backlog/ 2002, issued by the 1st respondent, despite the fact that the petitioner passed ITI course with the subject-Scientific Glass (Glass Blower), which is an adequate qualification for the said post as per the notification.

2. I have heard the submissions of *Sri N. Mukund Reddy*, learned counsel appearing for the petitioner, and of *Sri P. Madhusudan Reddy*, learned Standing Counsel appearing for the 1st respondent, Nagarjuna University, and of *Sri V. Jagapati*, learned counsel appearing for the 2nd respondent. I have perused the writ petition and also the counter filed by the 2nd respondent. Though no counter is filed on behalf of the 1st respondent, the learned Standing Counsel orally resisted the writ petition.

3. The core facts, which are not in dispute, are as follows:

The University issued the afore stated notification in respect of SC/ ST backlog posts notifying several Teaching and Non-Teaching posts including the post of Glass Blower, which post is reserved for SC-A category, calling upon the eligible candidates to submit their applications for the posts notified.

3.1 The case of the writ petitioner and the submissions made on his behalf, in brief, are as follows: "He applied for the said post of Glass

Blower. He belongs to SC-B category. He holds a provisional certificate certifying that he completed the prescribed period of 12 months training at Government D.L.T.C/I.T.I, Gudur, and passed in First Class the Trade Test conducted by the State Council for Training in Vocational Trade in Scientific Glass (Glass Blower) and Neon Signs held in July, 1994 and that his period of training is from August, 1993 to July, 1994. He has sufficient experience apart from qualification. He is, therefore, qualified for appointment to the said post; but, he was not considered for appointment though no candidate of SC-A category was available for appointment. Amongst all the persons who are qualified for appointment, the petitioner alone is eligible for appointment. He contacted the university authorities several times; but, he was finally informed that he was not having a Diploma in Glass Technology and, therefore, he is not considered for the post. No institution is issuing Diploma in Glass Technology. The course that was pursued by him is one in Scientific Glass Technology; thus, he is having qualification similar to the qualification which is the prescribed qualification, besides adequate experience. Hence, non consideration of his candidature for appointment to the post of Glass Blower on the ground that he is not having prescribed qualifications is arbitrary and illegal.”

4. At the inception, the writ petition was filed only against the University without impleading the 2nd respondent, who is appointed to the said post by the university by the proceedings dated 28.06.2002. However, the 2nd respondent was impleaded as per orders dated 08.09.2008 in WP.MP.No.25466 of 2008.

5. The case of the 2nd respondent and the submissions made on his behalf, in brief, are as follows: “As per the subject notification, the

qualification prescribed for the post of Glass Blower is Diploma in Glass Technology. The Diploma Course in Glass Technology is available to the students who study Ceramic Technology in the Government Institute of Ceramic Technology at Gudur of Nellore District. As he possessed Sandwich Diploma in Ceramic Technology (3 1/2 years) issued by the said Institute, he applied for the notified post. He is having experience having worked in various glass industries. Therefore, he possessed the prescribed qualification and fulfilled all the requirements for appointment. The selection committee selected him, on 25.06.2002, and recommended his candidature to the University for appointment to the post of Glass Blower. The proceedings of the selection committee were approved, *vide* resolution dated 28.06.2002, by the Executive Council, which is the appointing authority. He was duly appointed to the said post of Glass Blower. On production of necessary documents as directed by the University, he was admitted to duty to on 01.07.2002 and his services were regularised and his probation was declared on 30.06.2004 AN, *vide* proceedings, dated 27.08.2004. He has already put in (6) years of service as on the date of filing of his counter in September, 2008. He has discharged his duties to the utmost satisfaction of his superiors. On the ground of delay alone the petition is liable to be dismissed. The petitioner's candidature is not considered for various reasons including the reason that he did not possess a diploma. Therefore the writ petition is liable to be dismissed."

6. Be it noted that though the 2nd respondent was later impleaded, his appointment and the proceedings of the 1st respondent-University appointing him to the post of Glass Blower are not challenged by seeking amendment of the relief claimed in the writ petition. Be that as it may.

The writ petition is silent as to when the university authorities informed the petitioner that he will not be considered for appointment. The notification is of the year 2002. The 2nd respondent along with his counter produced the proceedings of the Executive Council, dated 28.06.2002, and the proceedings of Vice Chancellor, dated 27.08.2004, which are referred to while extracting the pleadings of the 2nd respondent. The writ petition was filed in September, 2008, that is, after the 2nd respondent has put in a long service of 6 years. As already noted, the appointment of the 2nd respondent is not challenged in the writ petition. Hence, on the ground of delay and laches alone the writ petition is liable to be dismissed, more particularly for the reason that the writ petition is conspicuously silent as to when the cause of action arose for filing the writ petition and as no details in that regard are pleaded and the delay in coming to Court and in seeking the relief are not explained in the writ petition.

7. It is to be noted that though the post is reserved for SC-A category, the notification itself indicated that SCs of all categories may apply as in case no candidate of the category mentioned in that notification is available, the candidates of next category of the same community will be considered for appointment as per rules. The petitioner as well as the 2nd respondent belong to SC-B category and that no candidate of SC-A category has applied and was eligible for appointment to the notified post is not in dispute. Though the petitioner claimed in the writ petition that he holds prescribed qualification, it is to be noted that in the notification the qualification prescribed is 'Diploma in Glass Technology besides 10 years school study + four years experience'. The copy of the qualification certificate filed

by the petitioner shows that it is only a provisional certificate showing that he completed the prescribed period of 12 months training at Government D.L.T.C/I.T.I, Gudur, and passed in First Class the Trade Test conducted by the State Council for Training in Vocational Trade in Scientific Glass (Glass Blower) and Neon Signs held in July, 1994 and that his period of training was from August, 1993 to July, 1994. The certificate does not show that he holds Diploma in Glass Technology. Further, the petitioner produced along with the material documents the proceedings, dated 10.05.1995, of the Assistant Director (T), DLTC/ITI, Gudur, which discloses that the petitioner was selected for Glass Blowing Training for a period of two years at M/s.Thimson Instruments (India), Mysore, and that he was instructed to join duties on 12.06.1995 between 11:00 AM to 02:00 PM and that the person reporting to training would be paid stipend. The petitioner having filed WPMP.No.29468 of 2015 to permit to file additional material papers, produced (i) a letter dated 20.04.1995 addressed by Proprietor, M/s.Thimson Instruments (India), to show that he was selected for training and was required to report to the Unit on 12.06.1995 between 11:00 AM to 02:00 PM; and, (ii) a certificate dated 20.02.2001 issued by Proprietor of Sai Signs certifying that he worked as Glass technician during the period from 1999 to 2000 in the said firm, in addition to the papers already filed with the writ petition. The said documents are received on file. Though the first of the afore-stated two documents, which is a letter, dated 20.04.1995, on a perusal would show that the petitioner was selected for training, the petitioner failed to show that he reported for training and successfully completed the training, by producing a certificate from the said M/s. Thimson Instruments (India). He did not produce any other document to show that he had four years of experience, as prescribed in

the notification. Moreover, in the affidavit filed in support of the writ petition there is no reference to the certificate issued by the said Sai Sgns. Be that as it may. The petitioner failed to substantiate his case that he is having prescribed qualification and experience for the post of Glass Blower notified by the university. He did not challenge the appointment of the 2nd respondent on any ground including the ground that the said respondent does not possess the qualifications as per the notification of the University. In the considered view of this Court, the petitioner has no *locus standi* as he failed to establish that he is qualified for appointment and as he did not, in-fact, challenge the appointment of the 2nd respondent on any ground.

8. On the above analysis, this Court finds that there is no acceptable merit in the writ petition and that the writ petition is liable to be dismissed.

9. The Writ Petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall also stand dismissed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

14-02-2017
Vjl