

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 23505 of 2000

ORDER:

This writ petition is filed by the petitioner seeking to issue a writ of Mandamus declaring the action of the respondents 1 to 3 in promoting the respondents 4 and 5 to the post of Panel Beater vide orders dated 10.11.2000 as illegal and arbitrary. A consequential direction is also sought to the respondents 1 to 3 to promote the petitioner as Panel Beater with effect from 10.11.1994 with all consequential benefits.

2. Heard Sri T.S. Venkata Ramana, learned counsel for the petitioner, Mr. S.V. Ramana, learned standing counsel for the Andhra Pradesh State Road Transport Corporation, appearing for the respondents 1 to 3, and Mr. A.K. Jayaprakash Rao, learned counsel for the respondents 4 and 5.

3. The brief facts leading to the filing of the writ petition are as follows:

The petitioner was appointed as Khalasi on 16.04.1991 in Regional Work Shop, Vizianagaram, of the respondent corporation, after following the due selection process. He passed SSC and ITI. Subsequently, he passed the trade test, which was conducted on 08.01.1994 for the post of Panel Beater, but he was not promoted. On the contra, the respondents 4 and 5, who did not appear for the test, were promoted. Subsequently, the 1st respondent issued proceedings

dated 04.05.1996 considering the representation of the petitioner and promoting him as a Panel Beater Grade II for a period of six months only. In the said representation dated 15.11.1994, it was clearly stated that the respondents 4 and 5 were permitted to write the trade test on 26/27.10.1991 even without having the qualifying service of four years as prescribed in Circular No.20/89-TRG, dated 02.08.1989, therefore he could not get the promotion and he has requested to consider his case for promotion. The petitioner was also given promotion for 1 ½ years as Panel Beater and later reverted to his former post of Shramik. In his proceedings dated 25.09.2000, the 1st respondent has stated that the respondents 4 and 5, who were non-ITI Shramiks, were allowed to write the trade test on 26/27.10.1991 and after conducting the test, they have been declared as passed in the trade test along with others, that the 1st respondent felt that the respondents 4 and 5 ought not to have been allowed to write the trade test, since they have not completed the four years as on 26/27.10.1991, that in 1994 there was a need to fill-up the vacancies of Artisans including Panel Beaters and another trade test was conducted on 08.01.1994 during which Mr. K. Tirupathi Rao and Mr. B. Phalguna Rao were declared to have passed the test along with the petitioner on 10.01.1994, that later, on 11.01.1994 a note was processed with full justification and permission to consider the candidates furnishing the entire case position since 1991, that the matter was cleared for giving promotions during 1994 and promotions were given to the candidates who had passed the trade test and who

fulfilled the requisite qualifying service as per the amended Regulations, that except the petitioner, the other three persons were given promotions on 10.11.1994, and that as he stood at 4th place among the qualified candidates, he was not promoted. The 1st respondent in his proceedings dated 25.09.2000 has also stated that in view of the decision taken by the Corporate Office due to sudden amendment of the Regulations, action was taken to permit the candidates, who have not completed the qualifying service as one time measure in all the regions of the Corporation and no injustice was done to the petitioner intentionally. The candidates, who were not eligible to write the trade test, were permitted to write the same, which has resulted in filing of the present writ petition by the petitioner.

4. It has been contended by the learned counsel for the petitioner that the petitioner has passed the trade test on 08.01.1994 and he is eligible for promotion to the post of Panel Beater instead of the respondents 4 and 5.

5. Learned counsel for the respondent corporation would submit that for writing the trade test, those who do not possess the qualifications as set out in the circular dated 02.08.1989 have to satisfy the conditions of the circular at the time of promotion as to whether such persons have completed the four years of service or not. In the instant case, the respondents 4 and 5 were promoted only after completion of four years of service. He would further submit that if the petitioner intended to appear for the trade test, which was

conducted on 26/27.10.1991, nobody prevented him from taking part in the said trade test.

6. Learned counsel appearing for the unofficial respondents 4 and 5 contends that they were promoted only after completion of four years of service as Panel Beater and no illegality has been committed by the respondent corporation in promoting them. He further contends that the case of the 5th respondent was not considered till 10.11.2000, as some disciplinary proceedings were pending against him, that questioning a show-cause-notice dated 23.08.1994 issued to him calling upon to explain as to why he should not be removed from service as Khalasi, the 5th respondent had filed W.P.No.17414 of 1994 and the said writ petition was disposed of on 25.07.2000, and that only in pursuance of the orders passed by this Court, his case was considered with effect from 10.11.1994 vide proceedings dated 10.11.2000.

7. It is brought to the notice of this Court that the official respondents had placed the case of the respondents 4 and 5 before the competent authority for exemption to effect promotions even before they completed the four years of service, but the competent authority had rejected the case of the official respondents. Admittedly, the respondents 4 and 5 were promoted only after completing the minimum of four years of service as Panel Beaters, and there is no illegality committed by the official respondents in promoting the respondents 4 and 5 as Panel Beaters ahead of the petitioner.

8. I have perused the Circular dated 02.08.1989 which relates to the conducting of trade test to Helpers/Cleaners/Khalasis for promotion to the post of Artisan Grade-II, provision of minimum qualifying service even for conduct of the trade test in the subject, but however, the Board, vide Resolution dated 27.03.1989, which is forming part of main body of the Circular, had approved the amendment to the method of recruitment and qualifications for promotion to the post of artisan Grade-II by prescribing two years qualifying service in respect of Helpers/Cleaners/Khalasis possessing I.T.I. qualification and four years qualifying service in respect of Cleaners/Khalasis with non-I.T.I. qualification but not for conducting trade test. The Board Resolution dated 27.03.1989 only deals with the approval of amendment to the method of recruitment and qualifications for promotion to the post of Artisan Grade-II. It is the fact that the respondents 4 and 5 were promoted only after completing four years of qualifying service as Panel Beaters. It is not the case of the petitioner that they were promoted even before completion of four years of qualifying service. In view of the same, there are no merits in the writ petition and it is, accordingly, dismissed.

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

ABHINAND KUMAR SHAVILI, J

15 December, 2017
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