

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) No.227 OF 2017

DATED : 22.06.2017

Between :

P.Yerraiiah S/o.Narsaiah,
Aged about 25 yrs, Unemployee,
R/o.H.No.3-420, Moddulagudem,
Gundala Mandal, Khammam District & others.

.. Petitioners/Applicants

And

The District Collector & Chairman
Integrated Tribal Development Agency,
Khammam & others.

.. Respondents



This court made the following :

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ORDER :

On 10.06.2010 the recruitment notification was issued by the District Medical and Health Officer (T), Bhadrachalam, to fill up the post of Multi purpose Health Assistants (Male) in the agency area under the control of Integrated Tribal Development Agency, reserved for local schedule tribes. Petitioners responded to the said notification. In the merit list drawn by the selecting authority, petitioners' names were shown from Sl.No.63 to 70. In this writ petition petitioners challenge their non-appointment to the said post, even though sufficient number of vacancies were available in Integrated Tribal Development Agency and contends that such inaction as arbitrary and illegal.

2. Heard learned counsel for the petitioner and learned Government pleader.

3. Learned counsel for the petitioner submits that as per the cadre strength sanctioned by the Government, the total strength in this agency area is 152. By 10.06.2010, 80 were working and there were 72 clear vacancies. Thus, there was no justification to restrict the recruitment only to 61, leaving aside 11 more vacancies and all the vacancies ought to have been filled up. Learned counsel further submits that as per the information furnished under the Right to Information Act, by the Additional District Medical Health Officer, Bhadrachalam, the total sanctioned strength as on 27.08.2011 was 206 out of which only 98 were working and there were 108 vacancies. Thus, large number of vacancies were available and all these posts pertain to the Primary Health. There

was no justification in keeping those vacancies unfilled and denying employment to the petitioners, even though they were qualified.

4. Learned Government Pleader submits that in view of the orders of the Government confining the recruitment only to 61 vacancies, there is no illegality committed in confining selection only to 61 vacancies and merit secured by petitioners is below the 61 selected candidates and therefore no illegality was committed in not appointing the petitioners.

5. It is not disputed by learned counsel for the petitioners that Government issued orders in G.O.Ms.No.208 Health, Medical and Family Welfare (J2) Department dated 02.08.2011 to fill only 61 vacancies in Bhadrachalam area and the recruitment notification also confined to 61 vacancies. Thus, in terms of the Government order and the recruitment notification, the vacancies notified were filled up. Neither the notification nor the Government orders are under challenge.

6. It is settled principle of law that merely because more number of vacancies were available, they need not necessarily be filled up by the competent authority. It is for the Government and the competent authority to assess the requirement and to make recruitment accordingly. As seen from the material papers filed along with this writ petition, the original indent placed by the Additional District Medical & Health Officer in his letter dated 10.06.2010 addressed to the Director was 72. The Government considered the proposal of the Commissioner, Tribal Welfare and the other authorities and after assessing the requirement, Government fixed number of posts that can be filled in respective

areas as shown in Para No.2 of the table in G.O.Ms.No.208. Government mandated the Commissioner to ensure filling up all the vacancies indicated in Para 2.

7. Thus, having regard to the fact that only 61 vacancies were directed to be filled up by the Government and the recruitment notification indicates only 61 vacancies, it cannot be said that confining the appointment only to 61 posts as illegal. It is not in dispute that petitioners' merit is beyond the 61st number in the select list and no person who secured less merit was selected. Thus, I do not see any illegality in the procedure followed by the respondents in confining the selection only to 61 and in making the recruitment to 61.

8. At this stage, learned counsel for the petitioners sought to contend that there are number of vacancies available and they should be directed to be filled up. Since it is not the subject matter of the writ petition, no such positive direction can be given. However, it is always open to the petitioners or any other unemployee to request the Government to take steps to fill up the vacancies.

9. Having regard to the above observations, the Writ Petition (TR) is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition (Tr) shall stand closed.

P.NAVEEN RAO,J

22nd June, 2017
Rds

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