

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.1534 AND 12704 OF 2011

Dated:24.01.2017

W.P.No.1534 of 2011

Between:

P. Subba Ramaiah, S/o P.Subbanna, D.No.4-1426-1,
Hanuman Nagar, Produktur,
YSR Kadapa District and others.

.. Petitioners

And

Andhra Pradesh State Road Transport Corporation,
Mushirabad, Hyderabad,
represented by its Managing Director,
and another

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.1534 AND 12704 OF 2011

COMMON ORDER:

Heard learned counsel for the petitioners and learned Standing Counsel for the respondent – Corporation.

2. The respondent – Corporation issued paper notification on 01.11.2010 inviting applications for filling up of vacancies of Shramiks in Depots/Regions/Workshops by direct recruitment. The qualification prescribed therefor is, a person must possess ITI Diesel Mechanic Trade certificate to work in the above sections. The petitioners possess the qualification of ITI with Motor Mechanic Trade. The petitioners responded to the said notification. However, they were not called for the selections. Aggrieved thereby, these Writ Petitions are filed.

3.1. Learned counsel for the petitioners contends that the notification prescribes the minimum qualification required and the petitioners possess higher qualification than what is prescribed for the post notified and therefore, they should have been subjected for selection. He further submits that even in the Andhra Pradesh State Road Transport Corporation Employees' (Recruitment) Regulations, 1966, the qualification prescribed for the post of Shramik is that a candidate should possess a minimum qualification of ITI with Diesel Mechanic Trade, and what is prescribed is only a minimum qualification and if a person possesses higher qualification than what is prescribed, such candidate is eligible to be considered and therefore, the action of

the respondents in not considering the case of the petitioners is *ex facie* illegal.

3.2. According to learned counsel for the petitioners, earlier persons possessing similar qualification were also considered and therefore not considering the petitioners' case at this point of time amounts to arbitrary exercise of power. He contends that the respondent – Corporation has issued Circular bearing No.R3/684(23)/2010-HRD, dated 02.11.2010, which clearly stipulated that any trade which is higher in degree than ITI Diesel Mechanic is made eligible for the post of Shramik. He therefore submits that as the qualification possessed by the petitioners being higher than prescribed, they are eligible to be considered and not applying this decision of the respondent – Corporation for their own recruitment initiated simultaneously also arbitrary and illegal.

4.1. In response to the said submissions, learned Standing Counsel for the respondent – Corporation submits that the respondent – Corporation requires persons possessing Diesel Mechanic Trade for the post notified on 01.11.2010. On 13.11.2010, another notification was also issued to fill up the post of Mechanic, wherein a person possessing ITI Motor Mechanic is made eligible. He therefore submits that the respondent – Corporation consciously issued notifications separately and did not recognise the qualification possessed by the petitioners as a required qualification to hold the post notified on 01.10.2010.

4.2. He further submits that the issue was considered by this Court in W.P.No.29446 of 2010 and batch and by order dated 01.12.2010, this Court rejected the contention as urged in these

two writ petitions, and as per the said decision, it is not open to the petitioners any more to contend that they are eligible to be considered.

5. It is not in dispute that the Recruitment Rules prescribe the minimum qualification required to the post of Shramik as ITI Diesel Mechanic Trade. In other words, any qualification higher than the minimum qualification prescribed can be considered as eligibility criteria for such appointment.

6. Having regard to the specific assertions of learned counsel for the petitioners that the respondent – Corporation has taken a decision to treat the qualification possessed by the petitioners as eligibility criteria for consideration for appointment to the post of Shramik and that a circular was issued on 02.11.2010, learned Standing Counsel was directed to produce a copy of the circular and a copy of the same is produced which would disclose that *“any trade which is of higher degree than ITI Diesel Mechanic can be made eligible for the post of Shramiks.”* By referring to the said sentence in the circular, learned counsel for the petitioners emphasises that the petitioners are eligible to be considered for said post.

7. At the first blush, the said contention appears formidable, but on a closer scrutiny this contention has no merit. What is stated in the circular is that if there is any higher degree than the ITI Diesel Mechanic, the same can be held as eligible. It can be understood that in the field of Diesel Mechanic when a person possesses higher qualification than what is prescribed, such person can be made eligible but not a Motor Mechanic. It

may be true that some of the fields learnt by the Motor Mechanic were also covered by the Diesel Mechanic course but that cannot *per se* make him eligible to be considered, more so, when employer is not in favour of consideration of such person as eligible.

8. It is also appropriate to notice that within two weeks from the date of subject notification, another notification concerning the post of Mechanic was issued, wherein qualification of ITI Motor Mechanic was prescribed as eligible criteria. This would clearly indicate the intention of the employer that ITI Diesel Mechanic Trade is different from that of ITI Motor Mechanic Trade.

9. From the order passed in the batch of writ petitions, it is seen that a specific assertion was made that the qualification of ITI Motor Mechanic is superior than the qualification of ITI Diesel Mechanic. This Court observed as under:

“Even from the contention of the petitioners, it is evident that the courses of diesel mechanic, on the one hand, and the motor mechanic, on the other hand, are substantially different from each other.”

10. It is thus seen that the issue had squarely fallen for consideration in the above batch of writ petitions and this Court rejected the contention. Though there is no reference to the circular dated 02.11.2010, the content of the order extracted above clearly shows that the issue was considered and rejected.

11. Following the earlier decision, I am not inclined to accept the contention of the petitioners holding them as eligible to the post of Shramik, in pursuance to the notification issued on 01.11.2010 and the Writ Petitions are liable to be dismissed.

12. The Writ Petitions are accordingly dismissed. It is needless to observe that if there is any subsequent amendment to service regulations, which treat the qualification possessed by petitioners as eligible for the post of Shramik, the petitioners are entitled to apply in response to the subsequent notification. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in these Writ Petitions shall stand closed.

Date:24.01.2017

KH

P. NAVEEN RAO, J

