

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No. 35402 OF 2017

ORDER: (*Per VRS,J*)

Aggrieved by the dismissal of his original application by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), with regard to a claim for seniority along with candidates selected and appointed under a previous notification, the petitioner who is now working as Assistant Motor Vehicle Inspector, after being selected under the next notification, has come up with the above writ petition.

2. Heard Sri J.Sudheer, learned counsel for the petitioner.

3. By a notification No.13 of 2004, the Public Service Commission invited applications for recruitment to various non-gazetted posts including the post of Assistant Motor Vehicle Inspectors. Actually 52 vacancies of Assistant Motor Vehicle Inspector were notified.

4. The petitioner submitted his application. It appears that to begin with, both men and women candidates were required to satisfy certain physical measurements. When the same was challenged by some women candidates, the Government took a decision in February, 2008 to relax the physical standards for women. Subsequently, a relaxation was also granted to male candidates.

5. When a question arose as to whether such a relaxation was to be given retrospective effect in favour of all candidates, one female candidate appears to have taken up the matter and ultimately succeeded in getting appointment. The candidate by name Smt. K.Kusuma was appointed on 25.06.2012 after a long drawn out battle.

6. In the meantime, the next notification No.45 of 2008 was issued by the Public Service Commission. The petitioner who did not choose to challenge the prospective application of the relaxation, as was done by Smt. K.Kusuma, participated in the selection under the next notification, got selected and appointed by proceedings dated 27.02.2012.

7. Thereafter, the petitioner filed an application in O.A.No.4842 of 2014, not seeking appointment under the previous notification bearing No.13 of 2004 on par with the other candidates, but seeking the extension of the benefit of notional seniority, along with candidates who were appointed under the previous notification.

8. The Tribunal dismissed the application by order dated 29.08.2017, forcing the petitioner to come up with the above writ petition.

9. From the facts narrated above, it will be clear that though the petitioner also participated in the selection under the notification No.13 of 2004, he resigned himself to fate about his non-selection, but

women candidates were more adventurous than the petitioner and they pursued the matter and ultimately succeeded in getting an order and also got appointment to a vacancy notified by the notification No.13 of 2004.

10. The petitioner who resigned himself to the fate in respect of notification of the year 2004 was successful in getting selected in the next notification of the year 2009. After assuring a berth in the service, the petitioner thought fit to seek seniority on par with candidates selected under the previous notification. It will be useful to extract the prayer made in O.A.No.4842 of 2014, which reads as follows:

“In view of the reasons mentioned in para VI above, it is prayed that this Hon’ble Tribunal may be pleased to direct the respondents to reckon the seniority of the applicant along with batch-mates of Notification 13/2004 as was done in the case of Smt. Kusuma as AMVI by granting notional seniority to him as per his APPSC ranking by declaring the action of the respondents in not extending the same benefit which was granted in the case of Smt. Kusuma as illegal, arbitrary, unconstitutional and void being violative of Arts.14 and 16 of the Constitution of India and to pass such order or orders as deem fit and proper in the interest of justice.”

11. Obviously, the above prayer could not have been granted by the Tribunal, as a person who was not selected under the previous notification, is not entitled to claim seniority on par with the candidates selected under the previous notification. Realising this

difficulty, the petitioner has now come up with a petition for amendment. But such an amendment will pose another obstacle in the form of limitation. As a matter of fact, the petitioner could not have sought the amended prayer even in his Original Application No.4842 of 2014. From the date of cause of action, the Original Application filed in 2014 itself was time barred. Therefore, the amendment will not enable the petitioner to sail through.

12. Hence, the Writ Petition is dismissed. No order as to costs.

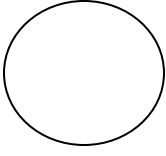
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed.



V. RAMASUBRAMANIAN, J

M.GANGA RAO J

27th November, 2017
anr



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN ✓
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO



Writ Petition No. 35402 of 2017

27th November, 2017

anr