

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

+ Writ Petition Nos.41823 and 41970 of 2017

% Date: 11-12-2017

1. P.Sudhir S/o P.Bhagawan Das, Aged 45 years,
Occ: Aspirant for Group II Examination,
R/o.1-3-183/40/46/19, Gandhi Nagar, Hyderabad-80
2. P.V.Ch. Nagendra Kumar
3. I.Gopalakrishna Murthy
4. B.Narasimha Murthy
5. S.Veera Brahmaiah
(Occ: Aspirants for Group II Examination)
... Petitioners (in W.P.No.41823/2017)

1. T.Kiran Kumar S/o Ramakrishna Rao, Aged 39 years,
Occ: Unemployed, R/o Flat No.304, Prasuna Vihar Apts.,
SBI Colony, Kavadiguda, Gandhinagar, Hyderabad
2. P.Rajkumar
3. Y.Ramachandraiah
4. Mallikharjuna Reddy
... Petitioners (in W.P.No.41970/2017)
Vs.

\$ 1. A.P. Public Service Commission, Rep. by its Secretary,
M.J. Road, Nampally, Hyderabad
2. State of A.P., Rep. by its Prl. Secretary, GAD Dept.,
A.P. Secretariat, Velagapudi, Guntur District
... Respondents

! Counsel for Petitioners in WP.41823/17: Mr. Ravi Shankar
Jandhyala
Counsel for Petitioners in WP.41970/17: Mrs. B.Rachna
Counsel for Respondent No.1: Mr. M.Surender Rao,
Senior Counsel, representing
Mr. C.Srinivasa Baba
Counsel for R.2: GP for GAD (AP) [WP.41823/2017]
Counsel for R.2: GP for Services-I (TG) [WP.41970/2017]

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> Head Note:

? Cases referred:
1. (2005) 8 SCC 180
2. (2010) 6 SCC 614
3. (2015) 6 SCC 573

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AND
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Writ Petition Nos.41823 and 41970 of 2017

Common Order: (per V.Ramasubramanian, J.)

Aggrieved by the vacation of an interim order originally granted by the Andhra Pradesh Administrative Tribunal, Hyderabad, in a batch of three original applications filed by the candidates who had applied for recruitment to Group-II Services of the State, the original applicants before the Tribunal have come up with these writ petitions.

2. Heard Mr. Ravi Shankar Jandhyala, learned counsel appearing for the petitioners in one writ petition and Smt. B.Rachna, learned counsel appearing for the petitioners in the other writ petition: Mr. C.Srinivasa Baba, learned Standing Counsel takes notice for the Service Commission and he is represented by Mr. M.Surender Rao, learned Senior Counsel.

3. By a Notification dated 08-11-2016, the Service Commission invited applications for recruitment to 982 posts included in Group-II Services of the State. About 6,57,010 candidates applied. A screening test was conducted on 27-02-2017. Based upon the performance of the candidates in the screening test, the Service Commission shortlisted a total of 49,106 candidates, in the ratio of 1:50, for the main written examination scheduled to be held on 15th and 16th July, 2017.

4. On 15th and 16th July, 2017, the main written examination was conducted in 171 centres, throughout the State. About 45,425 candidates out of the total of 49,106 candidates shortlisted in the screening test, appeared.

5. According to the Public Service Commission, the main written examination was to be a computer based test, conducted online. Therefore in all the 171 centres, spread over the entire State, 650 computer labs were provided. It appears that the Service Commission had hired the services of Tata Consultancy Services for the conduct of the examinations. The examination was designed in such a manner that the time at which the candidates commenced writing answers in the system provided to them, as well as the time at which they closed, all got embedded into the system. In other words, the duration taken by the candidates to complete the examination process, gets automatically recorded in the system.

6. It must be pointed out at this stage that even if an examination is not designed in such a manner to make a record of all this, the computers have the facility of getting the metadata captured in their system, with respect to the time of the commencement of answering of the questions and the time at which the system got hung and the time at which the system was shut down by the candidate after answering all questions.

7. Keeping this background in mind, if we come back to the case on hand, it appears that there were reports of malpractices conducted not by the Service Commission but by the candidates who took the examinations in a few centres. To be precise, the conduct of candidates who participated in the examination in 4 out of 171 centres, became the subject matter of serious disputes. Allegations were made in these four centres, that candidates had a free run, with free entry into and exit out of the examination hall enabling them to note down the questions, go out, find out the correct answers through other electronic gadgets and fill up the correct answers.

8. Another set of allegations were made that the systems in certain centres hung up, disabling the candidates from answering all the questions. A third set of allegations was that the examination which commenced at 10 a.m. on a particular day went on up to 11 p.m. or 12 midnight giving about 12 to 13 hours time for answering the questions which were supposed to be answered in three hours.

9. With these three sets of allegations, which according to the petitioners were supported by the very stand taken by the Public Service Commission, the petitioners wanted the further process of selection to be stalled. The Administrative Tribunal originally granted an interim order on 20-9-2017. But after the Service Commission filed applications for vacating the interim order, the Tribunal vacated the interim

order on 16-11-2017, forcing the original applicants before the Tribunal to come up with these writ petitions.

10. It is stated in the impugned order of the Tribunal that a learned Member of the Tribunal went through CCTV footages and that he was convinced after seeing the CCTV footages that there were no incriminating visuals.

11. In the light of such an order, the contentions of the learned counsel for the petitioners are:

(i) that the learned Member of the Tribunal claims to have seen the CCTV footage which was non-existent even according to the written instructions submitted by the Public Service Commission,

(ii) that the CCTV footages running to about 100 hours could not have been seen by the learned Member within a span of 24 hours and

(iii) that in the light of admissions made by the Service Commission, both in the note submitted to the Tribunal and in the counter affidavit filed before the Tribunal, the Tribunal ought to have ordered an independent enquiry before allowing the Service Commission to proceed further with the process of selection.

12. In support of the above contentions, the learned counsel for the petitioners placed strong reliance upon the decisions of the Supreme Court in ***Union of India v. Joseph***

***P. Cherian*¹, *All India Railway Recruitment Board v. K. Shyam Kumar*² and *Tanvi Sarwal v. CBSE*³.**

13. We have carefully considered all the above submissions.

14. For the present let us proceed on the presumption that the learned Member of the Tribunal claims to have seen a non-existent CCTV footage. We shall also presume for a moment that the entire CCTV footage could not have been seen by the Member within a span of 48 hours. These presumptions do not take us anywhere near the question as to whether on these two grounds the further processing of this selection should be put on hold or not. As we have repeatedly been pointing out, public interest demands that interim orders putting selections on hold cannot be passed very lightly by any Court or Tribunal.

15. As we have pointed out earlier, 6,57,010 candidates applied and participated in the screening test, conducted on 27-02-2017. Out of them, 49,106 got shortlisted in the ratio of 1:50. Out of them, only 45,425 appeared for the main examination. The main examinations were conducted in 171 centres with 650 computer labs.

16. All the allegations made by the petitioners before the Tribunal are as against other candidates who participated in the examinations in four centres out of total 171 centres.

¹ (2005) 8 SCC 180

² (2010) 6 SCC 614

³ (2015) 6 SCC 573

Therefore, it will not be in public interest or in the interest of the candidates who participated in the selection in the remaining 167 centres, to put on hold the process of selection.

17. The Service Commission had taken a stand before the Tribunal that the examination was to be held with a computer based application, where the time of commencement and the time of conclusion are all recorded.

18. As we have indicated earlier, the computers that we have today, have application softwares that enable metadata regarding the time of commencement, the time of conclusion and the time of hanging also to be recorded. Therefore, it is not impossible for the Service Commission to find out persons who indulged in malpractices. All details from the time the system is started up to the time the system is shut, are recorded and neither a few individuals who participated in the examination nor the Service Commission can erase out of eye-sight, any malpractice indulged in by the candidates. The Service Commission has taken a positive stand that 157 candidates had indulged in malpractices. According to the petitioners, there were actually 215 candidates who had indulged in malpractices.

19. Therefore, the Tribunal did well not to put on hold the process of selection to 982 posts to which 45,425 candidates appeared, when 215 candidates are said to have indulged in serious malpractices. Therefore, we find no

justification to interfere with the order of the Tribunal. Hence, the writ petitions are dismissed. The Tribunal may endeavour to dispose of the original applications within two months. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

11th December, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition Nos.41823 and 41970 of 2017
(per VRS, J.)



11th December, 2017.
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