

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION Nos.26752 and 29078 of 2013

COMMON ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

These two writ petitions arise out of the common order dated 22.02.2012 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.Nos.3737 and 3787 of 2010, whereby the authorities were directed to consider the cases of the applicants in both these O.As., arrayed as the first respondent in each of these writ petitions, for appointment to the posts of Multipurpose Health Assistants (Female)/Lab Technicians in Kadapa District, under hearing impairment quota. Aggrieved thereby, the State authorities preferred these writ petitions.

W.P.No.26752 of 2013 relates to O.A.No.3737 of 2010 while W.P.No.29078 of 2013 relates to O.A.No.3787 of 2010. The applicants aspired for appointment as Multipurpose Health Assistants (Female)/Lab Technicians in Kadapa District in the vacancies meant for hearing disabled persons. Both the applicants produced the certificates issued by the RIMS Medical Board, Kadapa, and E.N.T. General Hospital, Koti, Hyderabad, in proof of their claim. Having perused the legal position obtaining under Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, 'the Act of 1955'), which provides for reservation of posts and Section 2(t) thereof which defines 'person with disability' to mean a person suffering from not less than 40% of any disability as certified by a medical authority, the Tribunal held that both the applicants fulfilled the requirement to seek appointment by claiming reservation under Section 33 of the Act of 1955. It was on this basis that the Tribunal granted relief to both of them and directed

their cases to be considered under the hearing impairment quota for appointment to the posts in question.

By separate orders dated 16.09.2013 in W.P.No.26752 of 2013 and 08.10.2013 in W.P.No.29078 of 2013, this Court granted interim suspension of the common order under challenge. Miscellaneous Petitions were filed by both the first respondents/applicants in these cases to vacate the aforestated orders.

Having heard the learned Government Pleader for Services, State of Andhra Pradesh, and Sri P.V. Ramana, learned counsel for the first respondent/applicant in each of these writ petitions, we are of the opinion that the matter is amenable to final disposal at this stage.

Learned Government Pleader for Services would contend that apart from fulfilling the requirement of Section 2(t) of the Act of 1995 which defines a person with disability, the hearing impairment must also satisfy the requirement of Section 2(l) thereof for such a person to aspire for the reservation under Section 33 of the Act of 1955.

Section 2(l) defines 'hearing impairment' to mean loss of sixty decibels or more in the better ear in the conversational range of frequencies.

It is however borne out by the medical certificates produced by both the candidates in these cases that they fulfilled this requirement also. Insofar as V. Chennakesavamma, the applicant in O.A.No.3737 of 2010 is concerned, the certificate issued by the E.N.T. General Hospital, Koti, Hyderabad, discloses that she has loss of 75 decibels in the right ear and 96.1 decibels in the left ear. The quantum of her disability was determined to be 53%. Similarly, T.Anitha, the applicant in O.A.No.3787 of 2010, produced the certificate issued by the RIMS Medical Board, Kadapa, which

confirmed that she has 60% disability with a loss of more than 60 decibels in both ears.

In the light of the aforesaid facts, it is clear that both the candidates qualified for the reservation under the category of hearing impairment. The direction of the Tribunal to consider their cases under this category therefore does not warrant any interference.

The writ petitions are devoid of merit and are accordingly dismissed. Interim order in both cases shall stand vacated. Other pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

Date: 10.09.2018

va

JUSTICE SANJAY KUMAR

JUSTICE M.GANGA RAO

