

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.18216 OF 2018

DATED :03.07.2018

Between :

Y.Vijaya Kumari D/o.Y.Nagaiah,
Aged 38 yrs, Occu : Outreach Worker,
R/o.H.No.9/184, Mariapuram, RV Nagar,
YSR Kadapa District.

.. Petitioner

And

State of Andhra Pradesh,
Rep., by its Principal Secretary to Govt., Dept.,
For Women, Children, Disable and
Senior Citizens, Secretariat,
Amaravathi & others.

.. Respondents



This court made the following :

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ORDER :

Heard.

2. On 29.12.2017, the Project Director, District Women and Child Welfare Department, Kadapa, issued notification calling upon applications to fill up the posts of Protection Officer (Non Institutional Care), Social worker (Female), Social Worker (Male) and Ayah in District Boys Protection and Child Welfare Unit, Kadapa. The notification prescribes qualifications required to participate in the selections. In so far as this case is concerned, the recruitment is to the post of Social Worker (Female). Petitioner possessed requisite qualifications and participated in the selections. She was declared successful in the selections. But the 5th respondent was appointed even though she is not qualified. Aggrieved by such appointment, this writ petition is filed.

3. According to learned counsel for the petitioner, the 5th respondent does not possess the qualification prescribed and person who does not possess the essential qualification cannot be appointed. According to learned counsel, after the publication of selection list, objections were called for. Petitioner raised objection on eligibility and suitability of the candidate selected. But without considering the objection raised, the 5th respondent was appointed, and the said appointment is illegal.

4. Learned counsel placed reliance on the letter dated 22.05.2018 to contend that based on the direction of District

Collector, though the 5th respondent is not qualified she was selected.

5. Having regard to this submission, while issuing notice to the 5th respondent, learned Government Pleader was directed to produce the file pertaining to selections to the post of Social Worker. Notice was ordered on the 5th respondent. Notice served. However, no appearance is entered.

6. As per the recruitment notification dated 29.12.2017 following is the eligibility criteria for appointment to the post of Social Worker:

- (a) Should have a Bachelor/Post Graduate in Social Work/MSW/PG in Psychology and Bachelor Degree in Sociology from recognized University.***
- (b) Should have at least 3 years experience and knowledge of working on women/children protection issues including 2 years of working with children in conflict with law. Experience of working in Police Dept., on child related issues will be an added advantage.***
- (c) Should have good rapport with the NGOs/Police/Govt., Departments in the district who are working with children in conflict with law.***
- (d) Should have demonstrable commitment to women and child concerns. Should have written & oral communications Skills (ability to write and speak fluently English and Telugu). Ability to write case reports (submit copies of the reports).***
- (e) Ability to work on computer and capable in using MS-Office package (MS Word and Excel and also capable of using the internet.***

7. The proceedings dated 22.05.2018 clearly disclose that out of twenty applications received to the post of Social Worker, petitioner and other person were having eligibility i.e., educational qualifications and experience. As per Paragraph No.3 of the proceedings, the Selection Committee in the selections conducted on 05.05.2018, selected the 5th respondent and another person

though they have educational qualifications, but they do not have the experience prescribed in the notification.

8. Learned Government Pleader produced file relating to the selections in pursuant to the recruitment notification. The original file concerning the selection process is perused. It is seen from Page Nos.15 to 17 of the file bearing No.1143/A3/2016, in a tabulated form the eligibility of various candidates participated in the selections against the post of Social Worker is noted. According to Paragraph No.3 under the column 'Remarks', it is seen that some of the candidates though having educational and other qualifications, do not have experience. After the tabulated statement, in Paragraphs 28 & 29 it is written as under:

28. It is further submitted that, the posts of Social Worker (2 posts) are vacant since from the date of sanction of the posts under DCPU i.e., 09/2011, and inspite of subsequent notifications issued on 18.01.2014, 01.10.2014, 19.12.2015, 02.02.2016 & 13.06.2016, (2) posts of Social Worker have not been recruited due to not having required qualifications to the applied candidates.

29. As such, if the District Collector & Chairman pleases to agree, orders may kindly be issued whether to consider all the candidates who are having all qualifications (education, age, work on a computer), except experience in relevant field for the posts of Protection Officer (NIC) & Social Workers along with eligible candidates, for further interview."

9. A reading of the above two paragraphs would show that the District Collector was informed that for a long time the posts of Social Worker are not filled up as the persons with required experience are not available. Therefore, orders were sought from the District Collector, whether to consider all the candidates who are having all the qualifications except experience in the relevant field. No justification is shown as to why the experience in relevant

field should be exempted. As seen from the concerned note file, there is no discussion on why experience criteria should be relaxed and whether experience is relevant or not.

10. It cannot be said that for a person to work as Social Worker in District Boys Protection and Child Welfare Unit the experience mentioned in Paragraph (b) of the Eligibility Criteria, extracted above, is not required, to grant relaxation. I am of the considered opinion that for this post the experience prescribed in Paragraph (b) is an essential qualification and essential qualification cannot be relaxed.

11. It is seen from the note file that though note recognizes that petitioner fulfills the eligibility criteria and is found suitable, she is ignored, and note is run as if there is no other experienced candidate available to the post. Strangely without examining the issue in proper perspective, the District Collector, blindly accepted the proposal and directed consideration of persons without experience even though eligible candidate is available.

12. In the proceedings dated 22.05.2018 it is not stated as to why the petitioner is ignored and 5th respondent is selected, assuming that experience criteria is not required. It cannot be said that person with experience and educational qualifications is unsuitable as compared to the person without experience, to select such person.

13. Further it is the settled principle of law that after the selection process is completed one of the essential requirements of eligibility criteria cannot be relaxed in favour of the candidates who have applied without such experience. It cannot be said that there

is no other person without the experience willing to take the employment. Thus, many candidates are deprived of opportunity to participate in the selections to public post.

14. Thus, the entire action leading to the selection of 5th respondent is not in accordance with the recruitment notification, contrary to the norms of selection to public post and would amount to arbitrary exercise of power to confer undue favor on the person who is not otherwise eligible in accordance with the recruitment notification.

15. Thus, the selection and appointment of 5th respondent is set aside, and the Writ Petition is allowed. The official respondents are directed to undertake fresh assessment of eligibility of candidates already participated in the selections in pursuant to the recruitment notification dated 29.12.2017. The entire exercise shall be completed within a period of four (4) weeks from the date of receipt of copy of this order. Pending miscellaneous petitions shall stand closed.

3rd July, 2018
Rds

P.NAVEEN RAO,J