

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.19636 OF 2018

Date: 04.07.2018

Between:

Dharavath Ramla s/o. Dharavath Baliya, Aged 28 years,
Occu: Un-employee r/o. H.No.2-26, Putani thanda,
Raghunathapalli (M), Khammam district.

.....Petitioner

and

Telangana State Public Service Commission, rep.by its
Secretary, Nampally, Hyderabad and another.

.....Respondents



The Court made the following:

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ORDER:

On 02.06.2017 recruitment notification No.30/2017 was issued by Telangana State Public Service Commission (TSPSC) to make recruitment to fill up 541 posts of Veterinary Assistants. Petitioner submits that he studied Intermediate (Dairy) Vocational course and passed the course in May, 2017; that he belongs to ST community and also has physical deformity to the extent of 90%. Written examination was conducted on 23.07.2017. Result of written examination was published. As per merit secured, candidates were called in the ratio of 1:3 for certificate verification. Petitioner attended for certificate verification on 07.10.2017. According to petitioner, he has also submitted web option for choice of work place. Petitioner was asked to appear before the Medical Board scheduled on 20.11.2017 at Gandhi Hospital, Secunderabad. Accordingly, he appeared. According to petitioner, though Medical Board certified petitioner's disability as 90%, 32 other disabled candidates were asked to attend fitness test scheduled on 04.06.2018, ignoring the petitioner and other candidate. Surprised by this development, enquires were made. Petitioner was informed that he did not pass requisite qualifying examination as on the date of notification i.e., 02.06.2017 and therefore not qualified. Aggrieved thereby, this writ petition is filed.

2. Heard Sri L.Dayaker Reddy, learned counsel for petitioner, learned standing counsel for TSPSC for respondent no.1 and learned Government Pleader for respondent No.2.

3. According to learned counsel for petitioner, petitioner appeared in the qualifying examination held in May, 2017. The certificate of pass was issued to him in June, 2017. As he has already passed in the examination held in May, 2017, petitioner is deemed to possess the requisite qualification as on the date of recruitment notification and, therefore, not considering the candidature of petitioner amounts to arbitrary exercise of power and it is *ex facie* illegal and consequently, the respondent-TSPSC be directed to subject to petitioner to further selection process.

4. *Per contra*, according to learned standing counsel, as per the recruitment notification, the candidate is required to possess the eligible qualifications as on the date of notification i.e., 02.06.2017 and, therefore, the candidate must possess the eligible qualification before 02.06.2017, whereas the certificate of pass was issued after 02.06.2017 and, therefore, petitioner was not qualified to be considered for appointment to the post of Veterinary Assistant. In support of his contention, learned standing counsel placed reliance on the decision of Supreme Court in **Rakesh Kumar Sharma vs. Government of NCT of Delhi and others**¹.

5. Issue for consideration is whether petitioner acquired eligibility to participate in the selections to the post of Veterinary Assistant.

6. It is not in dispute that recruitment notification was issued on 02.06.2017. Paragraph-4 of the notification prescribed educational qualifications. According to this paragraph, applicant must possess the qualifications from a recognized University as

¹ 2013 (7) SCJ 283

detailed therein or equivalent thereto as specified in the relevant Service Rules indented by the Department **as on the date of notification.** Thus, primary requirement of this notification was, candidate must have requisite educational qualifications by 02.06.2017 to be eligible to participate in the selections.

7. In this case, the qualifying examination was held in May, 2017. Results of which were announced later and certificate of pass was issued in June, 2017, after cut-off date. Thus, as on the date of notification, result of examination was not announced and certificate of pass was not issued.

8. Identical issue was considered by the Supreme Court in the case relied upon by the learned standing counsel. Briefly noted, the facts are, the Delhi Subordinate Services Selection Board issued advertisement on 12.10.2007 inviting applications for recruitment to the post of Trained Graduate Teachers. The last date for submission of applications was 29.10.2007. The qualification prescribed was pass in B.Ed. The petitioner therein appeared in B.Ed., examination prior to submission of application, but the results were declared on 28.01.2008. The said petitioner also participated in the selection process, and he was issued appointment order on 19.06.2009. He joined service on 26.06.2009. On 21.09.2010 show-cause notice was issued calling upon the petitioner therein to show-cause notice why his services should not be terminated as he was awarded B.Ed. Degree only on 28.01.2008, which was much after the cut-off date – 29.10.2007. Not satisfied with the explanation offered, by order dated 05.10.2010, his services were terminated holding that he was

ineligible for considering for employment. On challenge, High Court allowed the writ petition filed by him. Hence, appeal before the Supreme Court.

8.1. Supreme Court held as under:

“6. There can be no dispute to the settled legal proposition that the selection process commences on the date when applications are invited. Any person eligible on the last date of submission of the application has a right to be considered against the said vacancy provided he fulfils the requisite qualification.

7. In *U.P. Public Service Commission, U.P., Allahabad and another v. Alpana* [(1994) 2 SCC 723], this Court, after considering a large number of its earlier judgments, held that eligibility conditions should be examined as on last date for receipt of applications by the Commission. That too was a case where the result of a candidate was declared subsequent to the last date of submission of the applications. This Court held that as the result does not relate back to the date of examination and eligibility of the candidate is to be considered on the last date of submission of applications, therefore, a candidate, whose result has not been declared upto the last date of submission of applications, would not be eligible.

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16. The legal proposition that emerges from the settled position of law as enumerated above is that **the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result.** Thus, in view of the above, no exception can be taken to the judgment of the High Court.”

(emphasis supplied)

9. In view of law laid down by the Supreme Court in the above decision, the claim of petitioner that he was qualified as on the last

date of notification was rightly rejected by the TSPSC and writ petition is liable to be dismissed and it is accordingly dismissed.

Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 04.07.2018
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