

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT APPEAL No.145 of 2019

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B.Radhakrishnan)

We have heard the learned counsel for the appellant and the learned counsel appearing for the respondents.

2. This appeal is by the writ petitioner. It is against an interlocutory order passed by the learned single Judge refusing to grant the interim relief in the course of the Writ Petition.

3. At the outset we may notice that the learned single Judge has given reasons for refusing the interim relief and relegating adjudication of the main issue to be in the Writ Petition. Therefore, fundamentally there is no illegality or impropriety in the exercise of jurisdiction to that extent.

4. The aforesaid position notwithstanding, learned counsel for the appellant argued that the learned single Judge has misdirected himself in appreciating the grounds of the litigation and the primary contentions of the writ petitioner. According to the writ petitioner, he joined service as an Assistant Executive Engineer and his date of birth is actually 16.08.1962. The service book shows that the date of birth is entered as 16.08.1962. The State Government authorities who are in control over the service of the writ petitioner issued him a notice to produce his Secondary School Certificate, may be because the establishment had doubts about the veracity of the entry

made in the date of birth column. To this learned counsel for the appellant argues that, in terms of Sub-rule (5) of Rule 2 of the Andhra Pradesh Public Employment (Recording & Alteration of Date of Birth) Rules, 1984, the entry in the service book cannot be corrected, except for the purpose of rectifying the clerical errors which are apparent.

5. We see that such amendment was brought into the Rules in 1994. We are mentioning it here without deciding the effect of that rule coming only at that point of time, while the writ petitioner had entered the service in 1986. Learned single Judge wanted to see the Secondary School Certificate of the writ petitioner. With the available materials on record, the learned single Judge has decided that the relief to continue in service cannot be granted and such issue will remain open for adjudication in the Writ Petition. This obviously would take care of any eligibility to further relief that the writ petitioner may be entitled to if he were to succeed in the Writ Petition.

6. For the aforesaid reasons, we do not see any error in the reasoning process adopted by the learned single Judge while considering the application for interlocutory relief in the course of the Writ Petition.

7. This Writ Appeal, therefore, fails and the same is, accordingly, dismissed. We clarify that the Writ Petition will be decided untrammelled by anything stated in this judgment and the parties on both sides shall be entitled to place further

material and pleadings on record. We also record the submission of the learned counsel for the appellant/writ petitioner that the learned single Judge may sympathetically consider the request of the appellant for out of turn final hearing of the Writ Petition.

The miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

27.02.2019
vs

