

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.7934 OF 2019

Date:27.08.2019

Between:

Naresh Rasamalla S/o.Sri Bheemaiah,
Aged 31 yrs, Occu : Unemployed,
R/o.H.No.16-3-297, Thirumala Nagar,
Godavari Khani, Karimnagar District 505 209

.....Petitioner

And

Northern Power Distribution Company of Telangana Limited,
Rep., by its Chairman and Managing Director,
Vidhyuth Bhavan, Corporate Office, Warangal

.....Respondent



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard learned counsel for petitioner and Sri Zakir Ali Danish, learned Standing counsel for the respondent.

2. On 18.12.2018 notification was issued by the respondent-Company for recruitment to the post of Junior Personal Officer. Selections were conducted. Petitioner participated in the said selections. Provisional key answers were announced on 11.02.2019. With reference to key answer published against Question No.56 of Book let- 'D', petitioner filed objection. According to petitioner the correct answer to the said question is 'b' i.e., Section "3", whereas the key indicates the correct answer as 'c' i.e., Section 4. Ignoring the objection filed, final key answer was published on 02.03.2019 and general merit list was published on 27.02.2019. In the said merit list published by the respondent, petitioner was shown to have secured 73 marks and is shown against Sl.No.8. According to petitioner if one mark is added for question No.56, he would go above Sl.No.7 and he will be within the zone of selection for Open category vacancy. From out of 25 vacancies notified, seven are earmarked for open competition.

3. Question No.56 of Book let 'D' reads as under :

Under which Section of Minimum Wages Act, 1948, the minimum rate of wages are fixed/revised by the appropriate Government ?

(a) -2: (b) - 3: (c) -4: (d) -5

4. It appears, the Jawaharlal Nehru Technological University, Hyderabad (JNTUH) was requested by the respondent-company to look into final key answers published. It appears the JNTUH in turn consulted Osmania University with reference to Question No.56 and the Osmania University has affirmed the correct answer as 'c' only.

5. Aggrieved by the decision of respondent, this writ petition is filed. By order dated 26.06.2019, this Court directed the respondent to refer question No.56 of Book Let code-D to the Committee of Experts of NALSAR University and to submit their report. A copy of the report of NALSAR University is placed before this Court, vide Memo Sr.No.49302 of 2019. The NALSAR University affirms the correct answer to question No.56 as "b" i.e. Section 3. The petitioner marked the answer to Question No.56 as "b". Therefore, in terms of the opinion expressed by NALSAR University, petitioner is entitled to addition of one more mark to the total marks awarded to him and thereby his marks would go up to 74.

6. In Question No.56 what is required is which provision of Minimum Wages Act, deals with power to fix the minimum wages and to revise. Independently, as seen from the provisions in Sections 3 and 4 of the Minimum Wages Act, 1948 (for short 'the Act'), Section 3 deals with power to fix minimum wages and revision thereon from time to time.

7. Section 3 of the Minimum Wages Act, to the extent relevant is extracted as under :

"Fixing of Minimum rates of wages : [(1) The appropriate Government shall, in the manner hereinafter provided]

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary;”

Section 4 of the Minimum Wages Act, to the extent relevant is extracted as under :

“Minimum rate of wages : (1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employment under Section 3 may consist of – “

8. On the contrary, Section 4 deals with the components of minimum wages that are required to be mentioned while fixing minimum wages. Thus, *prima-facie*, on looking into the provisions in Sections 3 and 4 of the Act, it is clear that the correct answer to Question No.56 is Section 3 i.e., option ‘b’ and not option ‘c’.

9. The Hon’ble Supreme Court in U.P.P.S.C., through its Chairman & another Vs Rahul Singh & another in the decision made on 14.06.2018 in Civil Appeal No. 5838 of 2018 along with another appeal was considered and explained the scope of Sections 3 and 4 of the Act. In terms of the view taken by the Hon’ble Supreme Court, the correct answer is option ‘b’ i.e., Section 3.

10. Having regard to the above discussion the Writ Petition is allowed. The respondent is directed to revise the merit list by adding one mark towards the correct answer given by the petitioner against Question No.56 and if petitioner is coming within the merit against 7 Open category vacancies, he shall be appointed. If appointments are already made to some persons, petitioner is also entitled to be appointed from the date of appointment of other persons. The entire exercise shall be completed within a period of four weeks from the date of receipt of

copy of this order. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

27th August, 2019
Rds

