

High Court for the State of Telangana

**THE HONOURABLE THE CHIEF JUSTICE
SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

W.A.No.933 of 2019

Date: 19.12.2019

Between:

Nalla Venkateshwarlu and others

... Appellants

A N D

The State of Telangana,
Rep. by its Principal Secretary (Energy),
Government of Telangana, Room No.433,
3rd Floor, D-Block, Telangana Secretariat,
Hyderabad and another

... Respondents

Counsel for the appellants : Mr.Ramesh Bura

Counsel for the respondent No.2 : Mr.G.Vidyasagar,
SC for TRANSCO

The Court made the following:

JUDGMENT: *(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

The appellants are aggrieved by the order dated 12.12.2019, passed by a learned Single Judge, in I.A.No.1 of 2019 in W.P.No.27626 of 2019, whereby the learned Single Judge has declined to grant any interim relief to the appellants in provisionally permitting them to take the examination scheduled to be held on 22.12.2019, for the post of Junior Assistant-cum-Computer Operator.

2. Briefly the facts of the case are that on 28.09.2019, the Southern Power Distribution Company of Telangana Limited had issued a notification for direct recruitment for the post of Junior Assistant-cum-Computer Operator. According to the said notification, the educational qualification was that *"the candidate must be a degree holder of B.A., or B.Sc., or B.Com., of any University in India, established or incorporated by or under a Central Act, Provincial Act, or a State Act, or any equivalent qualification, and approved by the Government of Telangana."* Since the appellants were hopeful that they would be selected for the said post, they applied for the same. However, subsequently, they were informed that their candidacy has been rejected, *inter alia*, on the ground that they have invalid qualification. Hence, no hall tickets were issued to them. Therefore, the appellants filed the writ petition mentioned herein above before the learned Single Judge. However, by order dated 12.12.2019, the learned Single Judge had refused to grant an interim order in their favour. Hence, the present appeal before this Court.

3. The learned counsel for the appellants submits that the appellants have a right of equal opportunity for seeking an employment. Therefore, the respondent No.2 is not justified in denying the appellants the fundamental right under Article 16 of the Constitution of India.

4. Secondly, even on an earlier occasion in W.P.No.25258 of 2019, by order dated 18.11.2019, the learned Single Judge had granted permission to the petitioners therein to participate in the selection process. Therefore, the learned Single Judge is not justified in denying the appellants the right to participate in the selection process.

5. Thirdly, in case the appellants are denied the right to appear in the examination, the writ petition filed by them would become an academic exercise. Therefore, the balance of convenience is in favour of the appellants.

6. Lastly, in case they are denied the right to take the examination, an irreparable injury would be caused to them as they cannot be selected for the said post. Hence, the learned Single Judge should have granted the interim relief in their favour.

7. On the other hand, the learned Standing Counsel for the respondent No.2 submits that according to the educational qualifications mentioned in the notification, only those who had a degree of B.A., or B.Sc., or B.Com., or any equivalent qualification, and approved by the Government of Telangana, would be eligible to apply for the said post. However, the appellants have only B.Tech., degrees in their favour. Moreover, the B.Tech degree has not been

declared as an equivalent qualification by the Government of Telangana. Hence, the appellants do not possess the requisite educational qualifications. It is precisely for the reason that they do not have requisite educational qualifications, their candidacy has been rejected by the respondent No.2, and no examination hall tickets have been issued in their favour. Therefore, the appellants do not have a strong *prima facie* case in their case.

8. Secondly, the appellants' cases were rejected on 03.12.2019, yet writ petitions were not filed till 09.12.2019. Since the OMR sheets need to be prepared, the learned Single Judge was justified in concluding that "no relief could be given to the appellants at the fag end, as they had approached the Court too late in the day." Therefore, even if on an earlier occasion by order dated 18.11.2019 in W.P.No.25258 of 2019, interim relief had been granted, considering the changed circumstances, the same could not be granted by the learned Single Judge.

9. Thirdly, the learned Single Judge has relied upon his earlier order dated 11.12.2019 passed in W.P.No.27470 of 2019, wherein for the same reasons, the learned Single Judge had declined to grant the interim relief to the appellants. Therefore, the learned Single Judge is justified in maintaining parity in the present case.

10. Lastly, merely because the appellants have the fundamental right to seek employment, the said fundamental right does not mean that they can seek employment when they are ineligible for the said post. Hence, the learned counsel has supported the impugned order.

11. A bare perusal of the notification dated 28.09.2019 clearly reveals that the educational qualifications required for the post of Junior Assistant-cum-Computer Operator is that *“the candidate must be a degree holder of B.A., or B.Sc., or B.Com., or any equivalent qualification, and approved by the Government of Telangana.”* The learned counsel for the appellants has not produced an iota of evidence to establish that B.Tech., degree has been considered “equivalent qualification by the Government of Telangana” for the said post. Since the appellants have merely B.Tech degree in their favour, but as the said degree has not been declared as equivalent qualification by the Government of Telangana, the appellants clearly do not have a strong *prima facie* case in their favour.

12. Moreover, even if a person has a right of equal opportunity for an employment, Article 16 of the Constitution of India cannot be interpreted to mean that a person, who is ineligible for employment, should be given a chance to compete for the said employment. Therefore, the first contention raised by the learned counsel for the appellants is clearly unacceptable.

13. According to the appellants themselves, they were informed about the rejection of their candidacy on 03.12.2019, whereas they have filed the writ petition on 11.12.2019. Considering the fact that organizing an examination is an onerous duty imposed upon the respondent No.2, considering the fact that holding the examination has its own logistical problems, a candidate who rushes to the Court, at the last moment, cannot expect the Court to direct the examination agency to permit him to take the exam

provisionally. Therefore, the learned Single Judge is justified in concluding that the interim relief cannot be given to the appellants “at the fag end”.

14. Considering the difficulties that would be faced by the respondent No.2 in organizing the examination for the appellants, at the last moment, obviously, the balance of convenience lies in favour of the respondent No.2, and not in favour of the appellants. Hence, the appellants have neither a strong *prima facie* case in their favour, nor the balance of convenience in their favour. Since they are not even qualified, they cannot plead that any irrevocable loss would be caused to them in case they are denied the right to appear provisionally in the examination.

15. Hence, for the reasons stated above, this Court does not find any merit in the writ appeal; it is, hereby, dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

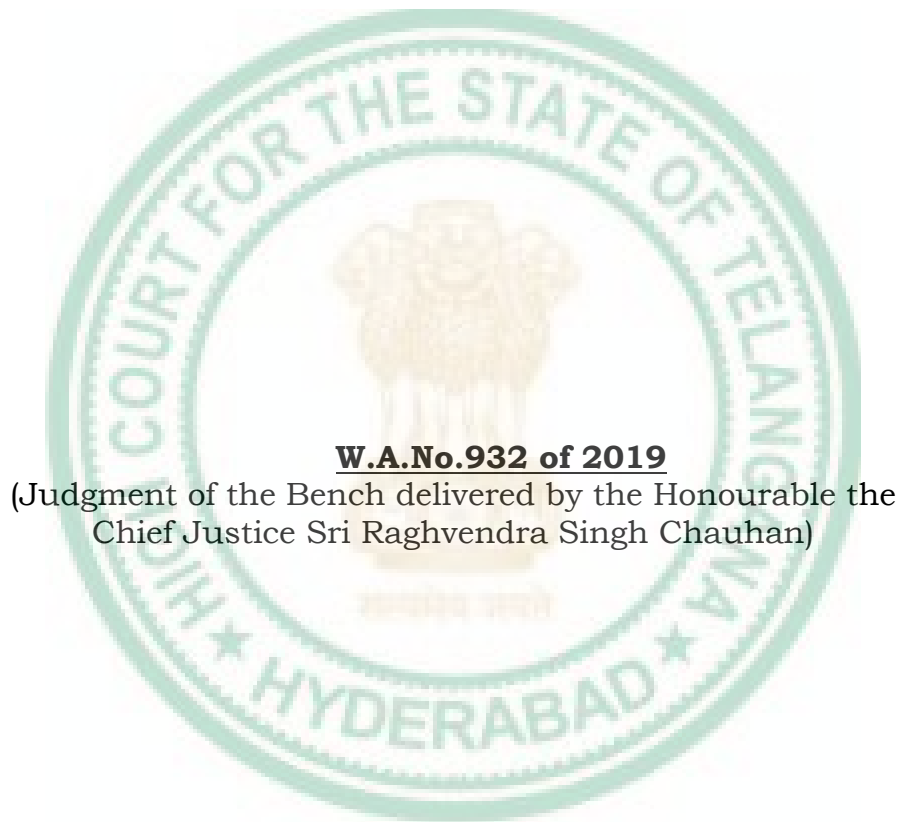
(A.ABHISHEK REDDY, J)

19th December, 2019

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AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**



W.A.No.932 of 2019

(Judgment of the Bench delivered by the Honourable the
Chief Justice Sri Raghvendra Singh Chauhan)

Date: 19.12.2019

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