

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE PULLA KARTHIK

Writ Petition No.19051 of 2004

ORDER: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

This Writ Petition is filed by the petitioners under Article 226 of the Constitution of India seeking a *Writ of Certiorari* by calling for the records relating to the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal') in O.A.No.5392 of 2001, dated 12.08.2004, and to quash the same by holding it as illegal, bad and arbitrary.

2. Heard Mr. J.R. Manohar Rao, learned counsel for the petitioners; and the learned Government Pleader for Services-II, for the 2nd respondent.

3. Learned counsel for the petitioners contended that petitioners were initially appointed as 'Sweepers'; later, the petitioners were appointed as Lab Attendants vide proceedings dated 31.05.1999 and subsequently promoted as 'Lab Technician Grade-II'; the contesting 1st respondent has challenged the appointment of petitioners as 'Lab Technician Grade-II' on the ground that petitioners are not having the requisite qualification, and the contesting 1st respondent was

also claiming appointment as 'Lab Technician Grade-II' as he is admittedly senior to the petitioners.

4. Learned counsel for the petitioners further contended that the Tribunal has specifically held in its order that as per amendment in G.O.Ms.No.381, dated 10.06.1991, there was an amendment to the Rules making H.S.C. / S.S.C. as sufficient qualification vide G.O.Ms.No.455 H.M. & F.W.(K.2), dated 21.11.1992; but, however, while dismissing the O.A.No.5392 of 2001, dated 12.08.2004, preferred by the contesting 1st respondent, the Tribunal set aside appointment of petitioners as 'Lab Technician Grade-II' on the ground that petitioners are not having requisite qualification of Intermediate.

5. Learned counsel for the petitioners further contended that the Tribunal set aside the appointment of petitioners and directed that petitioners be reverted to a lower post; aggrieved by the same, the petitioners approached the Tribunal by filing O.A.No.5392 of 2001; the Tribunal, vide order dated 12.08.2004, was pleased to dismiss the O.A.; aggrieved, the petitioners approached this Court by filing the present Writ Petition, and a learned Division Bench of this Court granted interim suspension of the order passed by the Tribunal in O.A.No.5392 of 2001, dated 12.08.2004, vide order dated

13.10.2004 passed in WPMP.No.25013 of 2004 in Writ Petition No.19051 of 2004; and by virtue of the said interim suspension granted by this Court, the petitioners were continued as 'Lab Technician Grade-II'.

6. Learned counsel for the petitioners has further drawn the attention of this Court to G.O.Ms.No.455 H.M. & F.W.(K.2), dated 21.11.1992, wherein the qualification was reduced to S.S.C.; as admittedly the petitioners are having S.S.C. qualification, the Tribunal ought not to have set aside the appointment of petitioners as 'Lab Technician Grade-II'; and therefore, prayed this Court to pass appropriate orders in the Writ Petition by setting aside the order passed by the Tribunal in O.A.No.5392 of 2001, dated 12.08.2004, and allow the Writ Petition.

7. On the other hand, learned Government Pleader for Services-II, appearing for the 2nd respondent, contended that petitioners were not having the requisite qualification and therefore, the Tribunal was justified in setting aside the appointment of petitioners as 'Lab Technician Grade-II' and directed that they be reverted to the lower post; and therefore, contended that there are no merits in the Writ Petition and the same is liable to be dismissed.

8. This Court, having considered the rival submissions, made by the parties, is of the considered view that when the Rules were amended vide G.O.Ms.No.455 H.M. & F.W.(K.2), dated 21.11.1992 making it clear that persons with S.S.C. qualification can also be considered for appointment to the post of 'Lab Technician Grade-II', the Tribunal was not justified in setting aside the appointment of petitioners as 'Lab Technician Grade-II'. Therefore, the order passed by the Tribunal is contrary to the Rules and also contrary to amendment made in G.O.Ms.No.455 H.M. & F.W.(K.2), dated 21.11.1992. Therefore, the order passed by the Tribunal in O.A.No.5392 of 2001, dated 12.08.2004, is liable to be set aside. Accordingly, the same is set aside. The Writ Petition is allowed. No costs.

9. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

PULLA KARTHIK, J

Date : 23.01.2023
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