
(1997) 11 AP CK 0077
In the Andhra Pradesh High Court
Case No : Writ Petition No. 9015 of 1997

A. Suresh Babu

APPELLANT

Vs

APSEB, Hyderabad and Others

RESPONDENT

Date of Decision : 03-11-1997

Acts Referred:

Apprentices Act, 1961 — Section 19, 21, 22, 9
Apprenticeship Rules, 1962 — Rule 6

Citation : (1998) 6 ALD 590 : (1998) 1 ALT 121

Hon'ble Judges : Motilal B. Naik, J

Bench : Single Bench

Advocate : Mr. Surender Rao, for the Appellant; Mr. Ramanujam, SC for APSEB, for the Respondent

Judgement

Petitioner is a B.Tech (Mechanical) Engineering graduate. He was taken as Apprentice Trainee in the respondent-Board on 8-4-1993 for a period of one year. He had undergone the apprentice training and obtained necessary certificate to the effect from the competent authority.

2. While so, the respondent-Board on 1-1-1997 notified 17 vacancies of Assistant Engineers (Mechanical) inviting applications from eligible candidates. Petitioner having successfully completed the apprentice training for one year has also responded to the notification and applied for the said post. The respondent-Board had conducted written test followed by oral interview for the above posts. Petitioner states that though he appeared for the written, he was not called for oral interview and therefore, he approached this Court through the present writ petition seeking mandamus directing the respondent-Board to immediately appoint him as Assistant Engineer (Mechanical) in one of the existing vacancies.

3. During the course of hearing of the writ petition, WPMP No. 23107 of 1997 was filed by the petitioner seeking amendment of the prayer in the writ petition and the said application has since been ordered after hearing the Counsel for both the parties.

4. While admitting the writ petition in WPMP No. 11005 of 1997 by an order dated 29-4-1997 interim direction was issued to the respondent-Board to give preference to the petitioner at the time of recruitment keeping in view the decision of the Supreme Court in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, .

5. The main grievances of the petitioner seem to be that having been undergone apprentice training in the respondent-Board for a period of one year, the respondent-Board ought not to have subjected the petitioner to written test as well as oral interview along with others in the recruitmental process pursuant to notification dated 1-1-1997.

6. Petitioner places strong reliance on U.P. State Road Transport Corporation case (supra) and contends that the supreme Court has held that keeping in view the apprentice training undergone by the qualified unemployed in respective Boards or Corporations, such persons who have under gone apprentice training need not be subjected to written test and oral interview. Petitioner therefore contends that he be immediately appointed as Assistant Engineer (Mechanical) in any one of the existing vacancies in terms of the said decision of the Supreme Court.

7. In the counter filed by the respondent-Board, it is admitted that the petitioner has undergone apprentice training and has also obtained a certificate to the effect. However, it is contended on behalf of the respondent-Board that as per Regulation 1 of APSEB Service Regulations Part-II, the petitioner is also subjected to written test and oral interview. It is further urged in the counter that in terms of the decision of the Supreme Court referred to above when all other factors being equal, petitioner could be given preference over other candidates.

8. It is therefore, in this background, and important question of law arises for consideration before this Court as to whether the candidates who have undergone apprentice training in a particular unit, Corporation or undertaking can be subjected to written test and oral interview for recruitment or they can be appointed straightaway only on the basis of the apprentice training?

9. Sri Surender Rao, learned Counsel for the petitioner has taken me to the provisions of the Apprentices Act, 1961 particularly with reference to provisions under Sections 9, 19, 21 and 22 and the relevant rules under 6-B, 8(3) and 10(3) & (7) of the Apprenticeship Rules. Learned Counsel has also taken me to the decision of the Supreme Court in U.P. State Road Transport Corporation case (supra). While referring in paragraph 13 of the said decision, learned Counsel states that the Supreme Court has made it clear that while considering the cases of the apprentice trainees for giving employment to them, they need not be subjected to any written test or other examinations ever if it is provided in the recruitment rules. Counsel therefore, states that the petitioner could be appointed as Assistant Engineer (Mechanical) in any one of the existing

vacancies.

10. On the contrary, learned Standing Counsel for the respondent-Board has submitted that in the said decision, at para 12 the Supreme Court has laid down certain guidelines as to how the cases of the apprentice trainees are to be dealt while granting employment to them. According to the Counsel, the Supreme Court has never intended that the apprentices shall not be subjected to written test and oral interview but only said that if all other things being equal, preference shall be given to the candidates who have undergone apprentice training.

11. In the wake of these divergent submissions, it has become necessary to refer to the decision of the Supreme Court which is the subject-matter of interpretation before this Court.

12. In the decision *Kripa Shankar Chatterji Vs. Gurudas Chatterjee and others*, the circulars issued by the State of Uttar Pradesh from time to time governing the modalities for appointment of such of those candidates who have undergone apprentice training, fell for consideration. The Supreme Court while examining the background of the circumstances under which the Apprentices Act, 1961 has been enacted by the Legislature, felt that as the State or Corporate bodies spend huge monies on imparting training to the apprentices, such monies being public monies, would go waste unless the services of the trainees are utilized in a proper way. The Supreme Court further observed that the provisions of the Apprentices Act, 1961 are intended to ensure training of the graduate Engineers to improve their employment potential in the backdrop of increasing demand for skilled craftsmen in the wake of large scale industrial development of the country. The Act proposed to provide for the regulation and control of training of apprentices. The Supreme Court has pointed out that the skills required for various occupations are acquired by apprentice training and their services could be better utilized for the benefit of the society at large.

13. As earlier stated, the controversy in this writ petition is only on the question of construing the judgment of the Supreme Court as to whether the Supreme Court has desired that those who have undergone apprentice training are to be subjected to written test and oral interview in the recruitment process along with other candidates or they are to be appointed directly without any written test or oral interview?

14. In para 12 of the decision of the Supreme Court *Kripa Shankar Chatterji Vs. Gurudas Chatterjee and others*, , it has been held thus:

"In the background of what has been noted above, we stated that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training:

(1) Other things being equal, a trained apprentice should be given preference over other direct recruits.

(2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in Union of India (UOI) and Others Vs. N. Hargopal and Others, , would permit this.

(3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any in the service rule concerned. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.

(4) The training institute concerned would maintain a list of the persons trained year-wise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior."

15. A reading of the above, it is abundantly clear that the trained apprentices would only be given preference over other candidates, if other things being equal. In the said decision, nowhere it is indicated that the trained apprentices shall not be subjected to written test or oral interview along with others in the recruitment process.

16. Sri Surender Rao, learned Counsel for the petitioner has taken me to para 13 of the said decision of the Supreme Court, which is as under:

"..... We make it clear that while considering the cases of the trainees for giving employment in suitable posts, what has been laid down in Service Regulations of the Corporation shall be followed, except that the trainees would not be required to appear in any written examination, if any provided by the Regulations."

17. While referring to the above observation of the Supreme Court, learned Counsel contended that subjecting the petitioner who has already undergone apprentice training, to written test and oral interview in the recruitment process is contrary to the observation of the Supreme Court and therefore, Counsel seeks an order to the respondent-Board to appoint the petitioner immediately in any of the existing vacancies of Assistant Engineer (Mechanical). I do not think the observation of the Supreme Court could be interpreted in this fashion to say that the Supreme Court has desired that the trained apprentices shall not be subjected to any written test or oral interview. In para 13 of the same judgment, the Supreme Court while examining the relief sought in that case, basing on the circulars issued by the Government of Uttar Pradesh and on the basis of the additional affidavit filed by the Corporation for filling up of vacancies for the posts of conductors and clerks, directed the Corporation, if there are posts still vacant, to act in accordance with the entitlement of the trainees, in terms of the observations made at para 12 of the said judgment. Therefore, on a careful reading of the entire judgment of the Supreme Court, I am of the considered view that para 13 of the said judgment cannot be read in isolation but it has to be read conjointly with para 12 for understanding the perception of the said decision of the Supreme Court. Therefore, the contention of the learned Counsel for the petitioner that the petitioner cannot be subjected to written test and oral

interview, cannot be appreciated and it is accordingly rejected.

18. In *K. Venkateshwarlu v. A.P. Electricity Board*, 1996 (3) Service Law Reporter 325, a Division Bench of this Court has considered the implication of the insistence of the respondent-Board that the petitioners therein who are trained in ITI and also underwent apprentice training in respective divisions of the respondent-Board, shall be sponsored by Employment Exchange to be considered for appointment as Assistant Lineman, Halper etc. Following the decision of the Supreme Court *Kripa Shankar Chatterji Vs. Gurudas Chatterjee and others*, , the Division Bench of this Court held that the petitioners therein are entitled to be considered for appointment in preference to untrained persons being sponsored by Employment Exchange, though they are not routed through any Employment Exchange.

19. In the absence of any specific direction by the Supreme Court that the trained apprentices need not be subjected to written test and oral interview, I am afraid, the petitioner's claim that he shall not be subjected to any written test or oral interview in recruitment process pursuant to the notification dated 1-1-1997, could not be accepted. Interestingly, the petitioner claims that he shall be appointed immediately as Assistant Engineer (Mechanical) in any one of the existing vacancies in terms of the decision of the Supreme Court in *U.P. State Road Transport Corporation case* (supra). As discussed in forgoing paragraphs, the Supreme Court at para 12 of the said decision has laid down certain guidelines while dealing with the claim of the trainees to get employment after successful competition of their training. The first and foremost guideline laid down by the Supreme Court in this regard is extracted hereunder:

"Other things being equal, a trained apprentice should be given preference over other direct recruits."

As seen from the counter filed by the respondent-Board the petitioner secured 11 marks in the written test as against 100 marks though the qualifying marks were prescribed as 35. On the basis of the interim direction granted by this Court, the petitioner participated in the oral interview though he was not qualified to attend the same and he secured only 2 marks as against the prescribed 12 marks. The respondent-Board, in this background, is justified in not calling the petitioner for interview as the petitioner did not even get the minimum percentage of marks to be qualified for the oral interview. Even in pursuance of the interim direction granted by this Court, though the petitioner attended the oral interview, he could only secure 2 marks out of 12. Therefore, by any stretch of imagination, it cannot be said that the petitioner stood on par with others in written test and in oral interview and he should be given preference over others as he being a trained apprentice.

20. As discussed above, the endeavour of the Legislature in bringing out the Apprentices Act, 1961 is to see that the unemployed qualified candidates would get training which would enable them to

improve their employment potential. If the contention of the Counsel for the petitioner that trained apprentices shall not be subjected to written test and oral interview, is to be accepted, it would amount to creating a special category and making reservations for that category. In other words, employment is assured to every trained apprentice without any competition from any quarter. By all means, this would not be the intention of the Supreme Court. What all the Supreme court has laid down in the said decision is that preference could be given to a trained apprentice over direct recruits, if other things being equal. In this case, as the petitioner has failed even to secure the minimum percentage of marks either in written test or in oral interview, his standing on par with other candidates did not arise at all as such no preference could be given to him over other candidates.

21. Having regard to the above discussion and the light of the decision of the Supreme Court *Kripa Shankar Chatterji Vs. Gurudas Chatterjee and others*, I am inclined to hold that the petitioner is not entitled for the relief as prayed for as his case does not attract this guidelines laid down by the Supreme Court in the laid decision. I do not therefore, see any merits in this writ petition and the same is accordingly dismissed. However, there shall be no order as to costs.