
(2003) 04 AP CK 0116

In the Andhra Pradesh High Court

Case No : Writ Petition No. 8557 of 1999

District Selection Committee and Others

APPELLANT

Vs

M. Venugopal and Others

RESPONDENT

Date of Decision : 04-04-2003

Acts Referred:

Andhra Pradesh School Education Subordinate Service Rules, 1992 — Rule 5

Citation : (2003) 5 ALD 512 : (2004) 7 ALT 856

Hon'ble Judges : G. Yethirajulu, J; Bilal Nazki, J

Bench : Division Bench

Advocate : Government Pleader for School Education, for the Appellant; I. Manohar Rao, for Respondent Nos. 1, 10 and 18, for the Respondent

Final Decision : Dismissed

Judgement

G. Yethirajulu, J.—This writ of certiorari is filed by the respondents in O.A. No. 1508 of 1998 on the file of the A.P. Administrative Tribunal, Hyderabad ("the Tribunal" for brevity) being aggrieved by the judgment of the tribunal dated 3-7-1998 praying to call for the records and to quash the judgment of the Tribunal as illegal, arbitrary and against the provisions of the A.P. Subordinate Service Rules and consequentially to set aside the same.

2. The respondents herein are the petitioners in O.A. No. 1508 of 1998.

3. In the affidavit filed in support of the writ petition it was mentioned that the 2nd petitioner issued a press notification on 15-3-1998 calling for the applications from candidates eligible for recruitment of School Assistants, Secondary Grade Teachers, Language Pundits etc., in Zilla Parishad and Mandal Parishad Schools in the State (District Selection Committee (DSC) -1998). The last date for receipt of applications was 31-3-1998. Each district is the Unit for the purpose of appointing of teachers. In Warangal District 1725 Secondary Grade Teachers (Telugu Medium) {for short "SGT (TM)"} were notified. In response to the said notification the respondents (petitioners in O.A.) submitted

applications for the posts of SGT (TM). Their applications were rejected on the ground that they did not study Telugu as first language up to SSC or did not study up to SSC in Telugu Medium or Intermediate or Graduation on the basis of the clarification issued by the Commissioner and Director of School Education in letter Rc.No. 626/C2-5/96 dated 7-2-1996. The respondents being aggrieved by the said order of rejection preferred O.A. No. 1508 of 1998 before the Tribunal and obtained interim orders on 27-3-1998. The Tribunal in the interim order directed the petitioners herein to receive the applications of the respondents, permit them to write the examination and, if they qualify in the written test, allow them to appear for interview, provided they are otherwise eligible, without rejecting their applications on the sole ground that they did not study Telugu as first language up to 10th class, but their results shall not be published. Pursuant to the interim direction, the applications of the respondents were received and they were allowed to write the examinations and the candidates qualified in the written test were allowed to participate in the interview. Subsequently, on 3-7-1998 the Tribunal relying on Rule 5(b) of the Rules issued in G.O. Ms. No. 40, Education, dated 7-2-1992, disposed of a batch of O.As., including O.A. No. 1508 of 1998 filed by the respondents. The petitioners being aggrieved by the above order of the Tribunal preferred this writ petition seeking to quash the same as illegal, arbitrary and against the provisions of the A.P. Subordinate Service Rules.

4. The point for consideration is whether the respondents are not entitled to be considered for Secondary Grade Teachers (Telugu Medium) as per the existing rules and whether the order of the Tribunal dated 3-7-1998 is liable to be quashed?

Point:

5. It is an admitted fact that the 2nd petitioner issued the notification on 15-3-1998 for recruitment to various teacher posts, including the Secondary Grade Teachers (Telugu Medium) by DSC, 1998. The respondents belong to Warangal District. The notification indicated 1725 posts of Secondary Grade Teachers (Telugu Medium) in Warangal District. The respondents applied for the said posts, but their applications were rejected after noticing that" they did not study Telugu as first language up to SSC or studied up to SSC in Telugu Medium. When the respondents approached the Tribunal by filing O.A. No. 1508 of 1998, the Tribunal passed the interim order on 27-3-1998, which reads as follows:

Considering the submissions made by the learned Counsel for the applicants the respondents are directed to receive the applications of applicants and permit them to write the examination and if they qualify in the written test allow them to appear for the interview provided they are otherwise eligible, without rejecting their applications on the sole ground that they did not study Telugu as 1st language up to X Class, but their results shall not be published.

6. Pursuant to the interim directions of the Tribunal, the respondents were

allowed to write the written test and the candidates who qualified in the written test were also allowed to participate in the oral interview, but their results were not declared. The Tribunal on 3-7-1998 disposed of O.A. No. 1508 of 1998, along with a batch of O.As., with the following observations and directions:

A close reading of the above rule makes it clear that a candidate aspiring for appointment as Teacher must be proficient to teach in Telugu medium. Since the applicants studied in Telugu medium up to SSC level, they must have proficiency in Telugu and if they are qualified in the written examination, they should be allowed for interview and if they are qualified in the interview, appointment orders to be given. In the circumstances, we direct the respondents to declare the results of the applicants, if they are qualified in the written examination as well as oral interview and if they are entitled for appointment in the order of merit against the vacancies notified by the DSC, 1998 and consider their cases for appointment.

7. Subsequently, on 23-7-1998 the Tribunal issued a corrigendum in the following terms:

In the orders of the Tribunal dated 3-7-1998 in the above said cases, the words "In Telugu Medium up to SSC" occurring in the 1st and 3rd paragraphs of the judgment shall be corrected and read as "up to SSC with Telugu as Second Language."

8. The respondents herein in their affidavit in O.A. No. 1508 of 1998 mentioned that they have passed S.S.C. with Hindi/English and Telugu as 1st and 2nd language respectively, they are fully eligible and qualified to hold the posts of Secondary Grade Teachers and School Assistants under the control of the writ petitioners. They contended that the condition imposed by the writ petitioners that the applicants ought to have studied up to SSC in Telugu Medium or up to SSC level with Telugu as first language was not prescribed either in the notification or in the statutory rules. They stated that they have studied SSC with Hindi/English as 1st language and Telugu as second language. They submit that their mother tongue is Telugu and they can teach the syllabus in Telugu, English and Hindi languages.

9. The learned Counsel for the writ petitioners drew the attention of this Court to Rule 5 of the A.P. School Education Subordinate Service Rules regarding the qualification for appointment to the post of Secondary Grade Teacher which reads as follows:

(i) Must possess the qualifications at least Intermediate Examination conducted by the Board of Intermediate Education, A.P., or its equivalent.

(ii) Must possess Teacher Training Certificate issued by the Commissioner for Government Examinations, AP., or its equivalent.

5(b) One must be proficient to teach in Telugu Medium whether appointed by direct recruitment or by promotion, wherever direct recruitment or promotion is

made to a teaching post in other media like Urdu, Kannada, Marathi, Tamil, Oriya etc., the person so appointed shall be proficient to teach in the relevant language.

10. The Tribunal after considering the above rule passed the impugned order.

11. The petitioners contend that all the respondents have studied up to Graduation and also B.Ed., in English Medium, that the respondents, if appointed, have to teach environmental studies and also mathematics in Telugu Medium only up to 7th Class and they have to teach Telugu language to the students up to 6th Class, and that since the respondents studied Telugu as second language up to SSC level, they are not fully conversant with the Telugu language. The learned Government Pleader further submitted that when the Director of SCERT took opinion of experts, they opined that the students who study Telugu as second language would start learning Telugu alphabets from 6th Class only. He also submitted that the proficiency in teaching in Telugu language to the students of Telugu Medium would mean that the teacher should be qualified and studied in Telugu Medium only or at least he should have studied Telugu as optional subject. He further submitted that the study of Telugu as a second language up to SSC level is of low standard, which may not give firm base in a language communication to the candidates in Telugu.

12. The writ petitioners in order to clarify regarding the proficiency to teach Telugu language issued a clarification dated 7-2-1996 which reads as follows:

Candidates with English/Urdu/Hindi Medium of instruction are eligible for SGT (English Medium/Urdu/Hindi and School Assistant English/Urdu/Hindi Medium Post. They are also eligible for SGT/School Asst. (Telugu Medium) provided that they have studied at least Telugu as 1st language at High School Level (SSC).

13. The writ petitioners are more worried about the corrigendum issued by the Tribunal on 23-7-1998 directing to correct the words "in Telugu Medium up to SSC" as "up to SSC with Telugu as second language". Rule 5 is very specific that the candidate should be proficient to teach in Telugu Medium. The Tribunal also after reading the above rule observed to that effect. But, on a later date the correction was directed to be carried out. The learned Government Pleader contends that the Tribunal has not properly construed the rule and the interpretation given by it is wrong.

14. The statutory rule did not specify as to what is the qualification required to get eligibility for appointment as a Secondary Grade Teacher (Telugu Medium). The word "proficiency" is very vague and wide which gives scope for people to have subjective satisfaction without any objectivity. What is proficiency to one man may not be the same to another. The degree of appreciation varies from person to person. Unless there is a specific rule indicating the minimum required qualification, the problem of interpretation may arise. Subsequent to these selections, we were informed, that the Government amended Rule 5 making the first language in Telugu as the prescribed qualification.

15. A statutory rule cannot be set aside or clarified through departmental instructions. The clarification dated 7-2-1996 issued by the Commissioner and Director of School Education cannot have any force to override the wording used in Rule 5 (b) of the Rules. When there is no statutory provision, the imposition of qualification that the candidates should possess Telugu as a first language at High School level cannot have any binding effect. In the light of the above rule position, we do not find any ground to interfere with the order of the Tribunal.

16. In the result, the writ petition is dismissed. Each party to bear its own costs.