
(1997) 08 AP CK 0088

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6822 of 1997

G. Chaya Devi

APPELLANT

Vs

Regional Manager, APSRTC, Nalgonda Region, Nalgonda Dist.
and others

RESPONDENT

Date of Decision : 28-08-1997

Acts Referred:

Citation : (1998) 4 ALD 545

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Mr. B. Sudharkar Reddy, for the Appellant; Mr. A.V. Sivaiah, SC for APSRTC, for the Respondent

Judgement

1. The petitioner's claim for appointment as Conductor in the respondent-Corporation was negated by the Corporation on the ground that she is found to be under height and this is the second round of litigation. The facts leading to filing of this case are: for the first time the respondent-Corporation has taken a Policy decision to recruit women as Conductors to the extent of 33% in consonance with the Policy of the Government in all the services. Thereafter, the Regional Manager, Nalgonda sent requisition to all the Employment Exchanges in the Nalgonda Zone to sponsor the eligible candidates both men and women for appointment as Conductors Grade-III as per the qualifications specified in the requisition. It is not in dispute that the petitioner's name under the women category was also sponsored by the Employment Exchange, Nalgonda and the respondent-Corporation seemed to have sent a call letter dated 10-12-1996 directing her to appear for interview on 25-01-1997. On the date of interview, the Selection Committee disqualified her on the ground that she fell short of required height by 1/2 c.m. as per the measurements taken by the Doctor, assisting the Selection Committee. Thereafter, she seemed to have approached the Civil Surgeon, Government Hospital, Nalgonda who certified that her height is 153 cms. On the basis of the certificate given by the Government Hospital, Nalgonda she preferred an appeal to the Regional Manager, Nalgonda and sought

for reconsideration of her case for appointment as Conductor. When the first respondent did not act on the appeal petition filed by the petitioner she approached this Court by filing W.P. No.2530 of 1997 and the same was disposed of by an Order dated 17-2-1997, wherein a direction was given to the first respondent to dispose of the appeal within four weeks from the date of receipt of a copy of that order. After receipt of the order the first respondent in a mechanical manner rejected the appeal without considering the certificate given by the Government Hospital, Nalgonda, stating that the height prescribed for appointment as Conductor is 153 Cms, whereas the petitioner was found to be 152.5 Cms. by their own Doctors.

2, Questioning the said Orders the present Writ petition was filed. While admitting the Writ Petition, by an interim order dated 3-4-1997 in W.P.M.P. No. 8167 of 1997 I directed the petitioner to appear before the R.T.C- Headquarters Hospital, Tarnaka for determination of her height as suggested by the Respondent's Counsel. At the same time, I observed that the authorities concerned should consider the feasibility of reducing the height for women candidates keeping in view the normal height of the women in this Country and the height prescribed for men for the Conductor Post cannot be made applicable to them. Pursuant to the above directions, while the Headquarters Hospital, Tarnaka struck to the version that she is only 152.5 c.ms., acting upon the suggestion made by this Court, the Board of Directors in their meeting held on 25-07-1997 constituted a Committee to consider the feasibility of reducing the height in Resolution No. 67/97 under the Chairmanship of one Sri A. Gnaneshwar, Regional Manager/ SCR with two more members. The Committee felt that the height prescribed by the Corporation cannot be reduced for women candidates by stating that under the A.P. Motor Vehicles Act, the minimum height of the roof of passenger vehicle is between 1500 m.m. to 1900 m.m. and the gap between the roof and garbrail is 50 m.m. Hence, it is the case of the Committee that a person short of 153 c.ms. may not be able to catch the garbrail to move up and down in the vehicle. I have no hesitation to hold that this report is submitted on imaginary grounds without knowing the realities. Admittedly the petitioner is sought to be recruited as Conductor on a mofussil bus service. Normally a Conductor serving in a bus on a mofussil route is not expected to move in the vehicle and the passenger is expected to go to the Conductor to collect the ticket before entering the bus. This is a known fact to any individual who is accustomed to travel on R.T.C. Buses. Even assuming for a moment that the Conductor is expected to move up in the vehicle it is very rare but not like buses running on the city routes. Hence, it is not difficult for a Conductor whose height fell short of 153 c.ms. to move in the bus. The falsity in the report can be seen from another angle also. Even according to the respondents the height of the bus from the floor level to garbrail level is 1846 m.m. or 6'.1". The height prescribed by the respondent-Corporation for appointment as Conductor is 153 c.ms. or 5'.1". From 6'.1" to 5M" there is a gap of one foot. The Standing Counsel for A.P.S.R.T.C. tried to explain about this

gap by saying that the Conductor can raise his hand and catch hold of the garbrail. The same principle is also applicable to the persons whose height fell short than the prescribed height. I feel that the reasons given by the Committee constituted for the above purpose, have neither any rational nor reflect the actual position in the buses run by the respondent-Corporation. Lastly it may not be an out of place to mention that the height required for appointment of a women Sub-Inspector is 152.5 c.ms. while for men it is 167.5 c.ms. I think the position is the same even in Excise Department also. This shows that the Government has fixed different heights for men and women by taking the normal average height of an Indian men and women. But the respondent-Corporation refused to see the realities and want to strict to its own plea.

3. The learned Standing Counsel for the respondent-Corporation tried to justify the action of the respondents by contending that in the subsequent selections so many women candidates whose height is more than the prescribed height have applied for the post of Conductor. That shows there is no dearth of women candidates even if the respondent-Corporation strict to its own plea, (i.e.) one should possess 153 c.ms. height to seek appointment as Conductor. But the question is: whether the decision of the respondent-Corporation is reasonable and conscionable. Viewed from that angle also the reasons given by the respondent-Corporation cannot be sustainable in law. Hence, the respondent-Corporation is once again directed to consider the issue and fix the height for women candidates for appointment as Conductor Grade-III by duly considering the average height of an Indian women.

4. Coming to the facts of the case, the learned Counsel for the petitioner seriously contested the report of the Headquarters Hospital, Tamaka and requested this Court to send the petitioner to an independent Doctor to measure the height of the petitioner. Accepting that request I directed the Doctor attached to the High Court Dispensary to measure the height of the petitioner and submit a report. In the Certificate dated 22-08-1997 the Doctor certified that the petitioner's height is 5".1" or 154.94 c.ms. From this it is evident, while the Doctors of the respondent-Corporation were of the opinion that the petitioner's height is only 152.5 c.ms., the Doctors working at Nalgonda General Hospital, Nalgonda and at the High Court Dispensary certified that the height of the petitioner is above 153 c.ms. In fact, the Standing Counsel for the respondent-Corporation opposed the report of the Doctor attached to the High Court Dispensary, by stating that the height of the petitioner is 5".1" is converted it would be less than 153 c.ms. under a mistaken impression that 1" is equivalent to 2.5 c.m. But from the conversion table published under the Standards of Weights and Measurements (Enforcement) Act, 1985, 1" is equivalent to 2.54 c.m, and one foot is equivalent to 30.4 c.ms. it is not in dispute that even according to the respondents her height is 5".1" but while converting into c.ms. the Doctors attached to the respondent-Corporation calculated 2.5 c.ms. as one inch and certified that the petitioner's height is only 152.5 c.ms. Hence, I am prepared to act upon the certificates given by the Superintendent, Government

General Hospital, Nalgonda and the Civil Assistant Surgeon, High Court Dispensary and hold that the height of the petitioner is 154.94 c.ms.

5. In the light of the height of the petitioner as decided by the Doctors attached to the High Court Dispensary and the Superintendent, Government General Hospital, Nalgonda, the respondents are directed to reconsider the case of the petitioner for appointment as Conductor Grade-III.