
(2023) 03 TEL CK 0074

In the Telangana High Court

Case No : Writ Petition Nos. 20226, 23005 Of 2019

G.V. Nagalakshmi

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 24-03-2023

Acts Referred:

Citation : (2023) 03 TEL CK 0074

Hon'ble Judges : E.V.Venugopal, J

Bench : Single Bench

Advocate : G.Subash

Final Decision : Dismissed

Judgement

1 Heard Sri G.Subash, learned counsel for the petitioner and the learned Government Pleader for Higher Education appearing for the respondents.

2 Since the point involved in both the writ petitions is one and the same, these two writ petitions are being disposed of by this common order.

3 The case of the petitioner is that presently she is working as Head of Electronics and Instrumentation Engineering, KDR Government Polytechnic College, Wanaparthi, Medak District. She was certified that she is visual handicapped person by 60% by the Medical Board, Sarojini Devi Eye Hospital in the year 1998. She joined the service in the year 1998 as Associate Lecturer through Public Service Commission in general category instead of visual handicap category. She completed B.Tech in EIE and subsequently acquired M.Tech qualification in computer sciences from JNTUCE, Hyderabad, during the year 2004. She passed Account test for subordinate officers Part-II, on 09.12.2010. All these were informed to the respondents and the same were recorded in her service book on 07.02.2012. An entry was also made in her service register with regard to her visual defect on 03.07.2015.

4 Petitioner further asserts that the final seniority list of HoD's has been released

in which her name was shown at Sl.No.40 vide G.O.Ms.No.10, dated 04.06.2019 without showing her reservation of visual handicap and qualification of Accounts Test, though she had informed about the same in the year 2012 itself. Immediately she gave representations to the respondents on 14.06.2019 and 21.08.2019 for consideration of her name at roster point – 6 which is allotted to Visually Handicapped (Women) category in the principal promotion for the panel year. But to her surprise G.O.Ms.No.29 HE (TE Dept.) dated 31.08.2019 was issued stating that since 'no VHW / M candidate is available, filled by merit cum seniority', thereby the third respondent was given promotion.

5 Hence the petitioner filed W.P.No.20226 of 2019 seeking to quash G.O.Ms.No.20 dated 31.08.2019 and to direct the respondents to consider the petitioner at roster point No.6, which is earmarked for visually handicapped (women).

6 In I.A.No.2 of 2019 in the above writ petition this Court, by order dated 18.09.2019, passed an order as follows:

The vacancy earmarked for visually impaired person in the category of Principal, Government Polytechnic is sought to be filled up by non-disabled person.

From the service record entry, it is apparent that petitioner is treated as visually impaired person. That being so, there appears to be no justification to fill up the vacancy by non-disabled person, when a disabled person is available. Balance of convenience is in favour of the petitioner. Hence, interim suspension to the extent of the decision to fill up the post of Principal, Government Polytechnic earmarked for visually handicapped.

7 While the above writ petition is pending, the petitioner also filed W.P.No.23005 of 2019 reiterating the same contents as were pleaded in W.P.No.20226 of 2019 but additionally stated that the second respondent passed order vide CTE-EST1/SMAO/28/2019, dated 16.10.2019, stating that "the entry is hereby ordered to be cancelled, it is directed to make necessary entry in the S.R of the incumbent accordingly". The said order was passed without any notice to the petitioner though she informed about her disability and though the same was recorded in her service register on 3.07.2015. Petitioner asserts that the order impugned in the present writ petition was passed pursuant to the interim order passed by this Court in I.A.No.2 of 2019 dated 18.09.2019.

8 Hence the petitioner filed the second writ petition i.e. W.P.No.23005 of 2019 seeking to quash the order CTE-EST1/SMAO/28/2019, dated 16.10.2019 passed by the second respondent as illegal and without jurisdiction and seeking a consequential direction to the respondents to consider the petitioner at roster point No.6, which was earmarked for Visually Handicapped (Women) and promote the petitioner to the post of Principal in the said category.

9 The second respondent filed counter affidavits in both the writ petitions. The common contention in those counters is that in response to the letter dated

20.09.2018 of the second respondent, first respondent has issued a Memo and requested to publish the provisional seniority list of Heads of Section (Engineering & Non-Engineering) working in the Government Polytechnics as on 01.09.2018 for the panel year 2018-19 and calling for objections, for preparation of the final seniority list and requested to send the detailed report to the Government for taking further action. Accordingly the second respondent issued Memo to communicate the provisional seniority list of the Heads of Section ((Engineering & Non-Engineering) for the panel year 2018-19 and called objections if any with regard to commissions / omissions in the seniority list within 10 days from the date of receipt of the Memo, otherwise it will be construed that no objections are there and the seniority list will be finalized as mentioned in the enclosed list. Further, the individuals have been requested to furnish the proof of passing of Accounts Test / Executive Officers Test conducted by APPSC/TSPSC and submit Xerox copies of B.Tech/M.Tech/M.Sc/M.A/Ph.D certificates awarded by the universities for verification and consideration for promotion to the post of Principal vide Circular Memo dated 16.01.2019 of the second respondent. However, the petitioner did not submit her application / objection for inclusion of her details of passing Accounts Test and her PH (VH) status in the seniority list of Head of Section for promotion to the post of Principal. Therefore, final seniority list of Heads of Section (Engineering & Non-Engineering) for the panel year 2018-19 has been issued by the first respondent and the same was communicated to the individuals vide G.O.Ms.No.10 of HE (TE), dated 04.06.2019.

10 It is the further contention of the respondents that the petitioner had submitted her objection on 18.06.2019 for inclusion of the details of her Accounts Test passing details and Physical Handicapped status (VH) in the seniority list against her name at Sl.No.40 i.e. only after the issue of final seniority list of Heads of Section (Engineering & Non-Engineering). It is further submitted that as per the Service Register of the petitioner she passed Accounts Test for Subordinate Officers Part-II in 2010 and made entries regarding physically handicapped status in the year 2015 but did not submit the information to the second respondent. She has informed about the same only after issue of the final seniority list G.O. Though the petitioner has sufficient time i.e. from 16.01.2019 to 04.06.2019 to submit her representations for inclusion of the above said details before communicating the final seniority list of Heads of Sections for the panel year 2018-19, she neglected the instructions issued by the second respondent dated 16.01.2019 and submitted representation only after issue of the final seniority list for the panel year 2018-19. Hence her candidature has not been considered for promotion to the post of Principal for the panel year 2018-19.

11 It is further submitted that the first respondent issued seniority list of Head of Section for the panel year 2017-18, vide G.O.Ms.No.4 of HE (TE) Dept., dated 01.02.2018 and communicated it to the second respondent. To that also the petitioner has not made any objections nor submitted any representation. In the

above circumstances, the DPC met on 28.08.2019 and approved certain names of Heads of Section (Engineering & Non-Engineering) for promotion to the post of Principal, Government Polytechnics for the panel year 2018-19. Based on the recommendation of the DPC, the Higher Education Department has issued G.O.Ms.No.29 of HE (TE) dated 31.08.2019 for empanelment of names of Heads of Section for promotion to the post of Principal subject to filing of any writ petitions or appeals.

12 Further, with regard to the issue of physically handicapped (VH) status, the entry in her service register was made only on 3.07.2015 by the Administrative Officer, Government Institute of Electronics, Secunderabad and counter signed by unrelated person Additional Secretary, State Board of Technical Education and Training, TS, Hyderabad based on certificate issued by Dr.Madhusudhan Reddy, Superintendent, Sarojini Devi Eye Hospital, Hyderabad dated 25.07.1997 and special Medical Board report O.P. Ticket No.99290 dated 26.11.1998, issued by the Superintendent of Sarojini Devi Eye Hospital, and Chairman, Medical Board / Superintendent, Sarojini Devi Eye Hospital, Hyderabad, without the orders of the Commissioner of Technical Education, TS, Hyderabad that too after a lapse of 17 years. But there was no entry of PH status when she entered into service. Hence the entry has been cancelled vide CTE's Memo dated 15.10.2019 as it was not made by the competent authority and the petitioner was referred to the Medical Board for examining her visual handicapped status for further necessary action of the even date letter addressed to the Superintendent, Sarojini Devi Eye Hospital, Hyderabad.

13 In the light of the above circumstances, it is contended that since the petitioner has not submitted her objections in stipulated period showing that she is visually handicapped and the details of passing of Accounts Test, the DPC held on 28.08.2019 has finalized the names of certain Heads of Sections working in Government Polytechnics and hence the candidature of the petitioner was not considered and the post was filled up with other person other than the person having the disability.

14 It is submitted that by the time the interim orders dated 22.10.2019 were passed by this Court, promotions to the post of Principal were already effected vide G.O.Ms.No.29, HE (TE) Dept., dated 31.08.2019. However, in view of the interim order passed by this Court one vacancy of the Principal is earmarked in terms of the orders of this Court. Hence prayed to dismiss the writ petitions.

15 As seen from the record, the respondent authorities have issued a Memo and published provisional seniority list of Heads of Section (Engineering & Non-Engineering) working in the Government Polytechnics as on 01.09.2018 for the panel year 2018-19 and called for objections. But the petitioner did not raise any objection to it. The individuals were also requested to furnish the proof of passing of Accounts Test / Executive Officers Test conducted by APPSC/TSPSC and submit Xerox copies of B.Tech/M.Tech/M.Sc/M.A/Ph.D certificates awarded by the universities for verification and consideration for promotion to the post of

Principal vide Circular Memo dated 16.01.2019 of the second respondent. However, the petitioner did not submit her application / objection for inclusion of her details of passing Accounts Test and her PH (VH) status in the seniority list of Head of Section for promotion to the post of Principal within the stipulated time and submitted her representation on 18.06.2019. The final seniority list was published vide G.O.Ms.No.10 of HE (TE), dated 04.06.2019 and the petitioner was placed at Sl.No.40 in the said list. So, having slept over for ten long months without submitting all the relevant documents with regard to her visual disability and proof of acquisition of qualifications, the petitioner cannot contend that her name was not considered for promotion.

16 The respondents contend that even for the panel year of 2017-18 also the petitioner did not raise any objections; therefore, the DPC met on 28.08.2019 and approved certain names of Heads of Sections for promotion to the post of Principal.

17 The contention of the petitioner was that she got the entries made in her service register with regard to the acquisition of the relevant qualifications as with regard to her disability in the year 2015 itself.

18 The contention of the respondents is that the said entry was made on 03.07.2015 by the Administrative Officer, Government Institute of Electronics, Secunderabad and counter signed by unrelated person - Additional Secretary, State Board of Technical Education and Training, TS, Hyderabad without the orders of the Commissioner of Technical Education, TS, Hyderabad that too after a lapse of 17 years.

19 It is the specific contention of the respondents that there was no entry of PH status when she entered into service. The petitioner was fatigue in taking steps with regard to making entry of her visually handicapped status in her service register at the time of her joining into service. If the claim of the petitioner that she was issued such a certificate in the year 1997 itself, what prompted her in not taking steps for all these years for making them entered into her service register is not known. Moreover, she has also not raised objection for the panel year 2017-18 promotion also. Without there being any representation being made by her to the respondent authorities with regard to inclusion of her qualification and disability into her service register and without there being any permission of the competent authority, the petitioner on her own cannot make entries in the service register. Hence the entry has been rightly cancelled vide CTE's Memo dated 15.10.2019 as it was not made by the competent authority and the petitioner was also rightly referred to the Medical Board for examining her visual handicapped status for further necessary action.

20 In the light of the above facts and circumstances, this Court finds no irregularity or illegality in the action taken by the second respondent in not considering the name of the petitioner for promotion to the post of Principal for the panel year 2018-19 as well as striking down the entries made in the service

register of the petitioner and directing her to get certificate afresh about the visual handicapped status for further necessary action and if found eligible to claim under VH category, right will automatically accrue upon her to claim reservation under the said category in respect of future notifications. Therefore, in the absence of such right, considering her case for the earlier notification issued does not arise.

21 Accordingly, this Court finds no merit in the writ petitions and accordingly the same are dismissed. No order as to costs. Miscellaneous petitions if any pending in these two writ petitions shall also stand dismissed.

22 Miscellaneous petitions if any pending in this writ petition shall also stand dismissed.