

(2010) 12 AP CK 0049

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 29626, 29869 and 29884 of 2010

K. Venkateswarlu

APPELLANT

Vs

The A.P.S.R.T.C and The Regional Manager, A.P.S.R.T.C,
Prakasam Region
 T. Bhushaiah and R. Gangadhar Vs
Andhra Pradesh State Road Transport Corporation and
Others
 Ch. Ramesh Vs Andhra Pradesh State Road
Transport Corporation

RESPONDENT

Date of Decision : 01-12-2010

Acts Referred:

Citation : (2010) 12 AP CK 0049

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : S.A.K. Mynoddin, in Writ Petition Nos. 29626 and 29829 of 2010 J. Sreenivasa Rao, in Writ Petition No. 29869 of 2010, S.M. Subhan, in Writ Petition No. 29880 of 2010, K. Ramamohan-Mahadeva, in Writ Petition No. 29884 of 2010, for the Appellant; A.G. in All WPs and K. Srinivasa Rao, SC for APSRTC in Writ Petition Nos. 29626 and 29829 of 2010, Satyanarayana Murthy, SC for APSRTC and K. Madhava Reddy, in Writ Petition Nos. 29869 and 29884 of 2010, W.V.S. Rajeswari, SC for APSRTC in Writ Petition No. 29880 of 2010, K. Madhava Reddy, SC for APSRTC in Writ Petition No. 29884 of 2010, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The Andhra Pradesh State Road Transport Corporation (for short "the Corporation") issued a notification, dated 01.11.2010, proposing to recruit as many as 3623 Shramiks in different regions and about 400 Shramiks in non-operating units. The upper age limit prescribed for the post, is 30 years as on 01.07.2010 with relaxation up to 5 years in favour of S.C., ST. and B.C. candidates. For the posts that are earmarked for Printing Press, the age limit is 25 years as on the same date, with similar relaxation. The qualification prescribed for the post is I.T.I. in Diesel Mechanic Trade for the post in depots/ regions and workshops, and I.T.I in Binding or Mechanic Trade for the post in the Printing Press. Similar notification was issued on 17.11.2004 for the post of

Motor Mechanics/Artisans. The age limit is the same for the posts but the educational qualifications are a bit different.

2. The Petitioners are all I.T.I. candidates, who have undergone apprenticeship training in various depots or workshops of the Corporation, several years ago. They have crossed the age limit stipulated under the notification. They claim that they are entitled to the benefit of relaxation of age limit on two grounds viz., that they have undergone apprenticeship training mainly and that the Corporation did not undertake any recruitment ever since the year 2000. The Petitioners further submit that on its own accord, the Corporation provided for relaxation of age limit to the extent of four years in favour of the candidates, who have undergone apprenticeship training with them on an earlier occasion. Reliance is placed upon a judgment of the Hon'ble Supreme Court in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others,

3. The Corporation filed a detailed counter-affidavit opposing the writ petitions. It is stated that the age limit was stipulated strictly in accordance with the relevant Regulations and there is neither any basis nor any warrant for relaxation of the age limit. It is urged that the Petitioners do not have any right to insist on the relaxation of age limit. Referring to the judgment of the Hon'ble Supreme Court, the Respondents contend that the maximum that the Petitioners can claim under it, is the benefit of relaxation to the extent of the period of apprenticeship training undergone by them, with the Corporation.

4. The learned Counsel for the Petitioners advanced arguments mostly on the lines indicated above. They submit that at a time when the recruitment was taking place almost every year, the Corporation has chosen to extend the benefit of relaxation of age limit by four years in favour of the candidates, who have undergone apprenticeship training with it and that there is no justification for not extending similar relief, particularly when the recruitment is taking place after a gap of ten years.

5. The learned Advocate General appearing on behalf of the Corporation submits that the recruitment is taking place strictly in accordance with the Regulations. He contends that mere fact that there was gap between two recruitments cannot provide any justification for insisting that the upper age limit must be relaxed. He further contends that the persons appointed as Shramiks are required to undertake hard physical work and unless youngsters are recruited, it would be difficult for the Corporation to ensure efficiency in the workshops or the depots. He submits that the mere fact that the Corporation has provided certain relaxation on earlier occasion cannot be a ground to insist on extension of the same.

6. It is almost after one decade, that the Corporation has taken steps to recruit Shramiks, on regular basis. During this period, the persons were being engaged on contract or outsourcing basis. The qualification as to age and education

prescribed in the notification, has already been indicated. The Petitioners possess the requisite educational qualifications. However, they have crossed the age limit, that is stipulated in the notification. It is true that the Petitioners do not have any right to insist that the Corporation must relax the age limit. The Court permits an employer to stipulate its own norms in the context of appointment of persons. However, being one of the premier public employers in the State, the Corporation is required to be reasonable in its approach. The fact that a gap of ten years intervened between two recruitments, would certainly leave quite a large number of aspirants without any opportunity. In the meanwhile, they have crossed the age limit. It is a matter of common knowledge that the State Government itself has relaxed the age limit from the one prescribed under the A.P. State Subordinate Rules, taking into account, the fact that the recruitment did not take place for quite number of years. The object was to provide opportunity to those who did not get similar opportunity at a time when they were within the prescribed age limit. Further, the mere fact that the age limit is relaxed to a certain extent does not by itself, confer a right upon them to be appointed. At the most, they would have an opportunity to be considered. The ultimate decision to recruit the suitable and meritorious persons would certainly rest with the Corporation.

7. Two factors weigh with this Court to come to the rescue of the Petitioners. The first is that the Honb"le Supreme Court in the judgment referred to supra held that where a candidate has undergone apprenticeship training in a particular organization, he shall be entitled to count that period in the context of relaxation of age limit, whenever regular recruitment takes place, in case he has crossed the prescribed age limit. The Supreme Court held as under:

(1) Other things being equal, a trained apprentice should be given preference over 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 this concerned service rule. 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 concerned training institute 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.

As a matter of fact, the Corporation itself has implemented this dictum, when it has undertaken recruitment on earlier occasions. There is no reason why the same benefit be not extended now. The Corporation would be just required to be in line with the directions of this Court, in the ultimate analysis.

8. The second is that though the Supreme Court restricted the benefit only to the extent of the period of training undergone as apprenticeship, the Corporation has provided that benefit to the extent of four years on earlier occasions. It was at a time, when the recruitments were taking place year after year. The intervention of gap of ten years would certainly justify similar approach. Though the Petitioners insist that they must be extended the benefit of relaxation of age limit for the period between the date of their undergoing apprenticeship training and the date of notification, this Court is not inclined to accede to the request. If one goes by the principle of nondiscrimination or precedent, it emerges that extension of benefit of relaxation of 4 years would be reasonable and just.

9. For the foregoing reasons, the writ petitions are allowed, directing that the Corporation shall relax the age limit of the Petitioners in case they possess the requisite educational qualifications, have undergone apprenticeship training with it and submitted applications within the stipulated time; by four years for the posts of Shramiks/Mechanics/Artisans. This, however, shall not be treated as a precedent and the benefit is being conferred having regard to the special circumstances, namely that there was no regular recruitment for the past ten years. Further, the Corporation shall be entitled to select the candidates depending on suitability and the relaxation of age limit shall not be treated as conferring any priority on those candidates. This benefit shall accrue to any candidate whether he figures as a writ Petitioner or not. There shall be no order as to costs.