
(1998) 02 AP CK 0029
In the Andhra Pradesh High Court
Case No : W.A. No. 1519 of 1997

M. Chandrasekhar

APPELLANT

Vs

APSRTC, Hyderabad and Others

RESPONDENT

Date of Decision : 16-02-1998

Acts Referred:

Constitution of India, 1950 — Article 12

Procedure of the Public Service Commission Rules — Rule 3

Citation : (1998) 2 ALD 542 : (1998) 2 ALT 320

Hon'ble Judges : N.Y. Hanumanthappa, J;B.V. Ranga Raju, J

Bench : Division Bench

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

Judgement

N.Y. Hanumanthappa, J.—The appellant herein was an aspirant to become a Cleaner in the Andhra Pradesh State Road Transport Corporation(for short "APSRTC") -1 st respondent herein which is a State within the meaning of Article 12 of the Constitution of India He was expecting that his name would be sponsored by the Employment Exchange for the post of Cleaner to be recruited in the year 1991 onwards. But, names of others, excluding the name of the petitioner were sponsored. Hence, he filed a Writ Petition No. 9453 of 1992 before this Court seeking a Writ of Mandamus and also made a request for interim direction to direct the APSRTC- Is respondent herein to permit the appellant-petitioner herein to attend the interview and this Court accordingly granted" an Interim direction. Pursuant to the said interim direction, the appellant who had earlier submitted an application directly, was interviewed. But, not selected on the ground that as on the date of recruitment, he was more than 30 years which is a qualification as to age prescribed. A learned single Judge of this Court after hearing both sides on merits held that the non selection of the appellant for the post of Cleaner is correct as he was more than 30 years of age on the date of recruitment and therefore dismissed the Writ Petition.

2. Aggrieved by the said order, the appellant - petitioner filed the present Writ Appeal. Sri C. Ramachandra Reddy, learned Counsel for the appellant - petitioner attacked the order of the learned single Judge and the procedure followed by the Corporation in not selecting the appellant and raised several grounds; whereas Sri A. V. Sivaiah, learned standing Counsel for the APSRTC supported the order passed by the learned single Judge and the stand taken by the APSRTC in not considering the case of the appellant for recruitment to the post of Cleaner. To hold, who is right, it is proper to extract hereunder some of the facts and also the rule position in the matter of recruitment Amended regulation relating to direct recruitment of various posts in the APSRTC including Cleaner or Khalasi, read as follows:

"For Direct Recruitment:

The candidate must not be above 30 years of age on 1st July of the year in which the recruitment is made".

If that is explained, in case, recruitment of a candidate is to be taken place in the year 1991, the candidates seeking recruitment must have born subsequent to 1-7-1961. The APSRTC on 2-12-1991 by its letter addressed to the District Employment Officer, District Employment Exchange, Chittoor, requested him to send the names of the qualified candidates for the purpose of selection to the post of Cleaner. To the said letter, the proforma for sending requisition to Employment Exchange for sponsoring the candidates for the post of Cleaner was also enclosed. Column No.8 of the proforma relates to the age limit, which is extracted hereunder:

"8. Age limit: Must have completed 18 years and below 30 years as on 1-7-1992. Age relaxation is allowed to an extent of 5 years on the upper age limit to the candidates belonging to SC, ST & BC. In respect of Ex-servicemen the service rendered in Army forces will be relaxed on the upper age limit subject to the condition that the age should not exceed 40 years, after allowing the relaxation."

According to the appellant-petitioner, his date of birth is 13-7-1961. The selection took place on 25-4-1992, by which period the appellant-petitioner had already completed 30 years of age. Hence, the age of the appellant-petitioner was more than 30 years and in view of Regulation explained above, the APSRTC thinking that Regulation mentioned above will not make the appellant entitled to seek appointment, rejected his case. If the APSRTC has understood the correct meaning of word "recruitment" and when it is made, it would not have rejected the appellant's request and on the other hand it would have allowed the appellant-petitioner to appear for interview. Recruitment shall not be meant that it refers only to the date of final appointment, on the other hand, recruitment starts from the date when The notification was issued inviting applications from the intending candidates seeking selection for appointment, if the contention of the APSRTC is accepted that anyone who seeks employment shall be within 30 years as on 1st July of the recruitment year (i.e., 1991 in the present case), it

results in creating arbitrariness and sometimes even depriving those who had possessed the requisite qualification. It is alright if the recruitment takes place immediately after the notification. But in a case where there is a time lag between the date of receipt of the application and the date of appointment, say 5 years, 8 years or 10 years, but for one reason or other, the selection did not take place and took place only after a particular period, the same would cause great hardship to such applicants who were within the age limit as on the date of submitting the applications. The applicant was qualified on the date of application, but because of lapse of time for selection, he lost his chance. Any regulation or restriction shall be reasonable and it shall stand to reason. If the Regulation is going to give two meanings, one that is more favourable and reasonable shall be accepted. A similar question came up for consideration before the Supreme Court in the Case of A.P. Public Service Commission, Hyderabad and Another v. B. Sarat Chandra and others 1990 (4) SLR 235 where in the Supreme Court while interpreting the scope of Rule 5 of A.P. Police Service Rules, held as follows:

"7. The Rule prescribes the minimum as well as the maximum age for appointment as Deputy Superintendent of Police. Minimum age is 21 years. The candidate must have completed 21 years on the first day of July of the year in which the selection is made. He should not have also completed 26 years as on that day. The Tribunal while construing this Rule has observed:

"According to the procedure the process of selection begins with the issue of the advertisement and culminates in forwarding the list to the appointing authority. The essence of the process lies in the preparation of the list. A selection can be said to have been done only when the list is prepared. In this view the eligibility of the candidates as to age has to be determined at this stage".

If the word "selection" is understood in a sense meaning, thereby only the final act of selecting candidates with preparation of the list for appointment, then the conclusion of the Tribunal may not be unjustified. But round phrases cannot give square answers. Before accepting that meaning, we must see the consequences, anomalies and uncertainties that it may lead to. The Tribunal in fact does not dispute that the process of selection begins with the issuance of advertisement and ends with the preparation of select list for appointment. Indeed, it consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva-voce and preparation of list of successful candidates for appointment. Rule 3 of the Rules of Procedure of the Public Service Commission is also indicative of all these steps. When such are the different steps in the process of selection, minimum or maximum age for suitability of a candidate for appointment cannot be allowed to depend upon and fluctuating or uncertain date. If the final stage of selection is delayed and more often it happens for various reasons, the candidates who are eligible on the date of application may find themselves eliminated at the final stage for no fault of

theirs. The date to attain the minimum or maximum age must, therefore, be specific, and determinate as on a particular date for candidates to apply and for recruiting agency to scrutinise applications, it would be, therefore, unreasonable to construe the word selection only as the factum of preparation of the select list. Nothing so bad would have been intended by the Rule making authority."

The principle laid down by the Supreme Court in the above case squarely applies to the case on hand. The petitioner was less than 30 years of age in the year when the Employment Exchange was requested to sponsor the candidates. But, his case was overlooked by the APSRTC as according to the Corporation, he was more than 30 years on the date of appointment, which approach in our view is quite arbitrary, illegal and contrary to law laid down by the Supreme Court and other High Courts in the country.

3. Having reached this conclusion, we have to hold that this is a fit case where the respondents are to be directed to consider the case of the appellant-petitioner for appointment to the post of Cleaner.

4. Accordingly, this writ Appeal ; is allowed and the respondents are directed to consider the case of the appellant-petitioner for appointment to the post of Cleaner if he is eligible and not otherwise disqualified. All other contentions are kept open. Compliance within three months from this date. No. costs.