

(1997) 05 AP CK 0015
In the Andhra Pradesh High Court
Case No : Writ Petition No. 4332 of 1997

Md. Abdul Azeez

APPELLANT

Vs

Andhra Pradesh State Road Transport Corporation and
Another

RESPONDENT

Date of Decision : 01-05-1997

Acts Referred:

Citation : (1997) 5 ALD 160 : (1998) 1 ALT 743

Hon'ble Judges : R. Bayapu Reddy, J

Bench : Single Bench

Advocate : V. Vishwanatham, for the Appellant; C.V. Ramulu, SC, for the Respondent

Final Decision : Dismissed

Judgement

R. Bayapu Reddy, J.—This writ petition is filed seeking a writ of Mandamus for declaring the action of the respondents in issuing Lr. No. L1/876 (S2)/96-RM (O), dated 30-1-1997 declaring the petitioner unfit for A-2 category as arbitrary and unjust and to direct the respondents to appoint him in the post of Conductor/Cleaner/Helper or any other suitable post in the service of the Respondent - A.P.S.R.T.C. (for short "the Corporation").

2. The contention of the petitioner is that he worked as Conductor on a private vehicle bearing registration No. AAE-4381 owned by one Sri Chevali Mohan Rao from August, 1984 to 10-9-1996 (sic 10-9-1986). The said vehicle was plying in the route Kanigiri to Kondapi and it was nationalised with effect from 10-9-1986 and he is a graduate possessing the requisite qualification to be appointed as Conductor in the Corporation due to nationalisation of the above said route. As the petitioner was not absorbed in the service of the Corporation, after the route was nationalised, he filed W.P.No. 1332/87 and as per the orders dated: 21-3-1987, the respondent therein was directed to absorb the petitioner in its service in accordance with rules in force. As the petitioner was not absorbed into its service, in spite of the above said orders passed in the writ petition, he filed

another writ petition - W.P.No. 7143/95 seeking a direction once again to the respondents to appoint him as Conductor or in any other suitable post in its service. As per the orders dated 31-7-1995, this Court gave direction to the respondents therein to consider the case of the petitioner for absorption in its service. The petitioner immediately submitted a representation on 1-9-1995 to the respondents requesting them to absorb him in its service and the respondent by its order dated 15-9-1995 directed the petitioner to appear for medical examination wherein it is stated to have been declared that he was having defective eye sight in right eye and, therefore unfit for appointment as Conductor. It is stated that the petitioner received injury to the right eye on 25-10-1994 and as such he was having defective eye sight in the said eye. After recovering from the accident, he personally approached the second respondent and requested for absorption. But the respondent-Corporation issued communication dated 9-8-1996 refusing to absorb the petitioner as Conductor on the ground that he was medically unfit for appointment as Conductor due to defective vision. The petitioner, therefore, again filed writ petition - W.P.No. 16511/96 challenging the action of the second respondent in declaring him as unfit for A-2 category post and the said writ petition was disposed of by this Court on 14-8-1996 with a direction that the case of the petitioner with regard to defective eye vision shall be referred to the Medical Board constituted by the Head-quarters Hospital, Taranaka and if the Medical Board finds the petitioner possessing normal vision, necessary appointment orders shall be issued to the petitioner. Subsequent to the disposal of the said writ petition, the second respondent again issued the impugned orders dated 30-1-1997 rejecting the case of the petitioner for absorption to the post of Conductor on the ground that the right eye is operated for cataract and is unfit for A-2 category. As such he cannot be considered for appointment as Conductor. The petitioner contends that such orders passed by the second respondent in rejecting his case for appointment as Conductor are illegal and arbitrary and as such the orders are liable to be set aside and the respondent-Corporation shall be directed to absorb him as Conductor as he is having good vision in the left eye, even though his right eye was operated for cataract.

3. Heard the learned Counsel for the petitioner. It is seen from the facts of this case that the respondent-Corporation has not considered the case of the petitioner for appointment as Conductor on the ground that he is medically found unfit for the post of Conductor due to defective vision. When the petitioner had filed earlier W.P.No. 16511/96 challenging the action of the second respondent in declaring him as unfit for A-2 category, by order dated: 14-8-1996, this Court disposed of the said writ petition with specific observation that the case of the petitioner with regard to the defective vision shall be referred to the Medical Board constituted by the Head-quarters Hospital, Taranaka and if the Medical Board finds the petitioner possessing normal vision necessary appointment order shall be issued to him. Subsequent to passing of such orders in W.P.No. 16511/96, Medical Board was constituted by the Head-quarters Hospital,

Taranaka for the purpose of examining the petitioner and the Medical Board so constituted examined the petitioner and issued a Certificate to the effect that the petitioner is not medically fit for the post of Conductor in the Corporation. In view of such certificate issued by the Medical Board, which was constituted as per the directions of this Court in W.F.No. 16511 /96, the second respondent issued the impugned order dated: 30-1-1997 rejecting the claim of the petitioner for his appointment as Conductor. It is sought to be contended by the petitioner by referring to some earlier orders of this Court in some other case that even if the petitioner is found to be having incorrect vision in the right eye, if his vision in the left eye is without any defect his case has to be considered for appointment as Conductor. The said contention cannot be accepted in view of the circumstances of this case. It is clear from a perusal of the earlier orders of this Court in W.P.No. 16511/96, which have since become final, a direction was given to the respondents to appoint the petitioner as Conductor only if the Medical Board to be constituted for examining, finds him possessing normal vision. The Medical Board so constituted has now issued a certificate categorically stating that the petitioner is not medically fit for the post of Conductor.

4. The petitioner has alleged in his affidavit that he has sought for review of the orders of this Court passed in W.P.No. 16511/96 and the said review petition was also dismissed. In view of these circumstances, the action of the respondents in not considering the case of the petitioner for appointment as Conductor cannot be said to be illegal and cannot be questioned.

5. As such there are no merits in the present writ petition and the same is accordingly dismissed. No costs.