
(2014) 06 AP CK 0097
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 641 of 2014

M.V. Prabhakar Reddy

APPELLANT

Vs

Andhra Pradesh State Road Transport Corporation

RESPONDENT

Date of Decision : 03-06-2014

Acts Referred:

Citation : (2015) 3 ALD 214 : (2014) 6 ALT 366

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : G. Vidya Sagar, Sr. Counsel for K. Udaya Sri, Advocate for the Appellant; K.V. Satyanarayana Murthy, (SC for APSRTC) and A.G. Satyanarayana Rao, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J.—Petitioners in W.P. No. 13333 of 2002 are the appellants herein. The appellants filed the writ petition, feeling aggrieved by the action taken by respondent Nos. 1 and 2 in the context of promotion to the post of Divisional Managers in the Andhra Pradesh State Road Transport Corporation (for short "the Corporation"). They challenged the notification, dated 14.07.2002, issued by respondent No. 1 pleading that it is contrary to the Andhra Pradesh State Road Transport Corporation Employees" (Service) Regulations, 1964 (for short "the Regulations") apart from being arbitrary and unjust, and to declare that they are entitled to be placed in inter se seniority of Class-I Junior Scale Officers, in accordance with Regulation 3 of the Regulations. Declaration was also sought to the effect that the action of respondent Nos. 1 and 2 in not placing the appellants above respondent Nos. 3 and 4 is illegal, arbitrary and consequently to direct respondent Nos. 1 and 2 to place the appellants above respondent Nos. 3 and 4.

2. Briefly stated, the facts are that; the appellants were initially selected and appointed as Junior Engineers (Civil) on 28.03.1985 and while appellant No. 1 was promoted to the post of Deputy Executive Engineer on 25.04.1988,

appellant No. 2 was promoted to that post one day earlier. Their services were regularized in that post on 07.09.1988. The Regulations provide for appointment and promotion to various posts. For the post of Divisional Manager, the appointment used to be by way of transfer, promotion or deputation from State or Central Governments. For promotion, the feeder category used to be that of the Officers in Class-I Junior Scale, except the Officers of Medical and Civil Engineering Departments. The Regulation was amended on 14.05.2002. By virtue of this, except the Officers of the Medical Department, all the Officers in Class-I Junior Scale including the appellants, became eligible. It is through this amendment that the appellants became eligible to be considered for promotion to the said post.

3. The Corporation issued notification, dated 27.05.2002 prescribing the procedure to be followed, for preparing inter se seniority list among different categories of Class-I Junior Scale Officers, for promotion to the post of Divisional Manager. The said notification is challenged by the appellants stating that it is opposed to Regulation 3 of the Regulations, it provides different yardsticks for various categories in Class-I Junior Scale Officers, and that the method of interpolation of Officers from different categories is contrary to law. The appellants have also raised the plea that even otherwise, the process undertaken by respondent Nos. 1 and 2 in preparing the inter se seniority list does not accord with the notification itself.

4. Respondent Nos. 1 and 2, representing the Corporation, and respondent Nos. 3 and 4 have opposed the writ petition. After examining the respective contentions, a learned Single Judge of this Court dismissed the writ petition.

5. Sri G. Vidya Sagar, learned Senior Counsel for the appellants, submits that the seniority of employees in the Corporation, whether in the same category, or in other categories that are eligible for promotion to a superior post, must be guided by Regulation 3 of the Regulations, which is to the effect that the date of entry into service shall constitute the basis. He contends that the date of regularization in service, of an employee must be taken into account, while preparing inter se seniority list, but contrary to the same, respondent Nos. 1 and 2 have placed respondent Nos. 3 and 4 above the appellants, though their dates of the regularization were much subsequent to those of the appellants. He has placed reliance upon the judgment of the Hon"ble Supreme Court in B. Manmad Reddy and Others Vs. Chandra Prakash Reddy and Others, .

6. Sri K.V. Satyanarayana Murthy, learned Standing Counsel for respondent Nos. 1 and 2 and Sri A.G. Satyanarayana Rao, learned counsel for respondent No. 5, on the other hand, submit that the issuance of the impugned notification became necessary, since the category of Deputy Executive Engineers in Class-I Junior Scale were also conferred with eligibility for promotion to the post of Divisional Managers. They contend that the impugned notification ensured a perfect blending and equitable distribution among various categories in the same class, duly taking into account, the method of recruitment and the number of persons

in each category, that became eligible to be considered for promotion. They submit that the judgment relied upon by the learned Senior Counsel for the appellants, in fact, supports the action taken by respondent Nos. 1 and 2.

7. Till the year 2002, the post of Deputy Executive Engineer (Civil) was not in the feeder category, for promotion to the post of Divisional Manager. Through amendment, dated 14.05.2002, the said post was included as one of the feeder categories. In case, there exists only one feeder category for promotion to any higher superior post, the seniority list in such category would naturally, constitute the basis for choosing the candidates for promotion. Where, however, there are many feeder categories, a process of integration of seniority, among such categories needs to be undertaken. Not only the dates of appointment of the candidates in the respective categories, but also the method of recruitment for them, become relevant. A feeder category for which the only method of appointment is through direct recruitment would naturally stand as a class-apart, vis-?-vis a post for which the method of appointment comprises of direct recruitment as well as promotion. Added to that, the number of eligible candidates in each category becomes significant. It is not uncommon that in an organization, the cadre strength in a particular category is large when compared to the work force in comparable category, occurring in the same class. Unless a mixing up, comparable to fixation of ratio or stipulation of quota among the various categories is undertaken, there is every likelihood of all or majority of the posts in the superior posts being knocked away by a single category, to the detriment of rest of others. It is to balance these factors, that respondent No. 1 issued the impugned notification.

8. The notification not only indicates the manner in which the seniority in each of the categories must be fixed, but also how the inter se seniority list of the eligible categories must be prepared. The gist of the process is indicated in the following paragraph:

"Hence, the seniority of the Officers belonging to the category of Dy. EE (Civil), to which there is no quota and rota rule between direct recruitment and promotion and Officers promoted directly to the category on regular basis with probationary rights shall be fixed in the inter-se-seniority list of Junior Scale Officers in comparison with the dates of regularization of Officers of other categories."

The list was accordingly prepared and enclosed to the notification.

9. If one looks at the dates of regularization of different categories of employees, a semblance of anomaly would be noticed. For example, the date of regularization of an employee placed at Serial No. 9 in the inter se seniority list is 09.11.1990, whereas that of the employee placed at Serial No. 54 is 01.08.1985. This discrepancy is said to be on account of the fact that in some categories, the dates of regularization were fixed on notional basis, whereas in case of others, they represent the actual dates. The date of entry into respective categories is

taken into account and places are assigned in the seniority list, duly undertaking a process of mixing up to ensure a balanced and equitable distribution. If such an exercise is not undertaken, it may so happen that the available vacancies in the posts of Divisional Manager are occupied by Officer of a particular feeder category. For example, if at a given recruitment, there are five posts of Divisional Managers and there are ten eligible Deputy Executive Engineers, which is one of the feeder categories, all the posts may be knocked away by them, to the detriment of the remaining categories, such as Assistant Traffic Managers and Assistant Mechanical Engineers. Further, except that some more categories are added in the year 2002, the same pattern was being followed before the amendment also.

10. It is true that Regulation 3 of the Regulations mandates that the seniority of an employee must be determined with reference to the date of entry into service. The relevance of that Regulation is more in the context of preparation of the seniority list of any particular category. The appellants do not complain that the date of their seniority in the category of Deputy Executive Engineers was not fixed with reference to the date of their appointment into service. The seniority of the employees in other categories is also fixed with reference to Regulation 3 of the Regulations. It is only when the inter se seniority list is prepared for the purpose of undertaking promotions to a superior post, by considering the case of the employees of different categories in Class-I Junior Scale, that the mixing up of the employees with reference to their entitlement, proportion, or method of appointment has to be undertaken. Hence, it cannot be said that there is any violation of Regulation 3 of the Regulations by respondent Nos. 1 and 2.

11. Learned counsel for the appellants submits that the places assigned to the appellants are not in accordance with the notification. Though such a general plea is raised in the representation made by the appellants as well as this Court, the specifics are not spelt out. It is only when a specific grievance is made out with reference to the relevant dates of appointment, regularization or places in the seniority, that an occasion would arise for examining it. Even now, the appellants can make a representation if they are of the view that any clause of the notification was violated while preparing the inter se seniority list.

12. The writ appeal is accordingly dismissed, however, by leaving it open to the appellants to make a representation pointing out the violation, if any of the procedure prescribed in the impugned notification. As and when such representation is made, respondent Nos. 1 and 2 shall take necessary steps in accordance with law. There shall be no order as to costs.

13. The miscellaneous petition filed in this writ appeal shall also stand disposed of.