

(2023) 01 TEL CK 0039
In the Telangana High Court
Case No : Writ Petition No. 6930 Of 2020

Nigulapu Mounika

APPELLANT

Vs

District Collector And 2 Others

RESPONDENT

Date of Decision : 31-01-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Telangana State and Subordinate Service Rules, 1996 — Section 12(3)(a)

Citation : (2023) 01 TEL CK 0039

Hon'ble Judges : K.Sarath, J

Bench : Single Bench

Advocate : B Sudhakar Reddy, Neeraja Reddy

Final Decision : Allowed

Judgement

1. This Writ petition is filed under Article 226 of Constitution of India, seeking the following relief:

"....to issue of Writ Mandamus declaring that the action of the 1st respondent in taking steps to issue posting/appointment orders to the Respondent No.3 for the post of Junior Assistant under S.C category in pursuance of Notification of the 1st respondent in Ref.No.A2/240/2013 dated 20.06.2018 for appointment of Junior Assistants/Typist in T.S. Ministerial Services Subordinate Services for limited recruitment of backlog vacancies of SC & ST in the District of Adilabad without submitting Pass Certificate/Degree Certificate at the time of submission of application and in violation of condition 2 (b) of Annexure-I of the Notification dated 20.06.2018 and set aside the final selection list dated 07.03.2020 selecting the Respondent No.3 as Junior Assistant and consequently direct the 1st respondent to issue posting orders/appointment orders to the petitioner as Junior Assistant in view of the provisional selection list....."

2. Heard Sri B.Sudhakar Reddy, Learned Counsel appearing for the petitioner and Government Pleader for Services-II appearing for respondent Nos.1 and 2 and

Sri Santapur Satyanrayana Rao, learned Counsel appearing for the respondent No.3.

3. The Learned Counsel appearing for the petitioner submits that the 1st respondent issued notification vide Collector's Ref. No.A2/240/2015 dated 20.06.2018 for the appointment of Junior Assistants/Typist in T.S Ministerial Services, Subordinate Services for limited recruitment of backlog vacancies of SC & STs in the District of Adilabad. In pursuance to the said notification the petitioner applied for the post of Junior Assistant as she possess requisite qualifications as prescribed in the notification. After due process of selection the respondent No.1 provisionally selected the petitioner on 01.02.2020 under SC Women Quota at Serial No.3 and the same was also displayed on the Notice Board of the 1st respondent. Thereafter, the 1st respondent issued another Provisional Common List of Junior Assistants and Typist under SC/ST Backlog-2018, wherein the respondent No.3 is placed at Sl.No.789 though the respondent No.3 did not submit any certificates of Technical qualifications and mentioned in the remarks column that only degree certificate is filed. In the remarks column of the respondent No.3 at Sl.No.1326 of Provisional List reflects as 'year wise and computer generated marks memo enclosed', but the column of total marks and marks obtained does not show the marks at all.

4. The learned Counsel for the petitioner further submits that the respondent No.3 has not passed degree examination as on the date of notification as per 2 (b) of Annexure-I of the application for recruitment to the posts of Junior Assistant and Typist in T.S. Ministerial Services. Contrary to the said provision the respondent No.1 taken steps to issue appoint order to the Respondent No.3 by deleting the name of the petitioner, and requested to set aside the final selection list dated 07.03.2020 and consequently direct the respondents 1 and 2 issue appointment order to the petitioner as Junior Assistant in view of provisional selection list of Junior Assistant for SC/ST category and requested to allow the writ petition.

5. The Learned Government Pleader for Services-II basing on the counter submits that as per the condition set by the notification, the respondent No.3 is eligible as on the date of notification for being appointed as Junior Assistant as her particulars are in compliance with the requirements of the notification and accordingly she was placed in the Provisional Final Selection list by replacing the petitioner. The application of the respondent No.3 is not in violation of condition No.2 (b) of Annexure. The remarks 'year-wise and computer generated marks memo enclosed' against her name in the provisional list dated 01.02.2020 has nothing to with her non-compliance with condition No.2 (b), this is because as per the documents submitted by the respondent No.3 she has appeared for her degree final year exam in the month of March/April, 2018 and she has received her consolidated Degree Marks Memo, which is dated 22.06.2018. Though this date is just after the cutoff date of notification which is 20.06.2018 it is mentioned in the consolidated Memo of Marks that the final year examination

was conducted in the month of March/April, 2018 and requested to dismiss the writ petition.

6. Sri Santhapur Satyanarayana Rao, Learned Counsel appearing for respondent No.3 submits the respondent No.1/District Collector, Aliabad issued notification under Group-IV Services and the applications were to be submitted from 20.06.2018 to 4.07.2018 and the merit in the qualifying exam is the criteria for appointment. The Respondent No.3 got 87.27% marks and she is the No.1 candidate in the merit list. The merit list was prepared and the name of the Respondent No.3 was shown against 13.26 and the last column under the remarks it is stated ` years wise computer generated marks memo enclosed`.

7. The learned Counsel for the Respondent No.3 submitted that the Respondent No.3 enclosed year wise marks memo and computer generated marks memo of 3 years and it is sufficient that the Respondent No.3 possessed degree qualification and due to mistake on the part of the authorities the total marks and percentage of marks of the Respondent No.3 were not reflected, as such on 05.02.2020 the Respondent No.3 made application stating that since against her name marks were not shown in spite of submitting year-wise marks memos, once again she has submitted consolidated memo for three years and the provisional certificate. It is further submitted that the selection was made basing on the merit and it is not the case of the Respondent No.3 that she has not acquired degree qualification even on the last date of notification dated 04.07.2018.

8. The learned Counsel for the Respondent No.3 further submitted that the Respondent No.3 got provisional certificate on 22.06.2018 issued by the Shathavahana University and also got consolidated Marks Memo for three years on the same day and as such the Respondent No.3 cannot be treated as a person disqualified. As per Clause-2 of Annexure-I the Respondent No.3 has given all the information about passing degree by producing year-wise pass Marks Memo and consolidated Memos for three years, therefore the question of treating the Respondent No.3 as disqualified does not arise as she got highest marks in the entire selection and requested to dismiss the petition.

9. The learned Counsel for Respondent No.3 in support of his contentions relied on the following citations:

1. Dr.M.V.Nair Vs. Union of India and others (1993) 2 SCC 429.

2. Rakesh Kumar Sharma Vs. State (NCT of Delhi) and others (2013) 11 SCC 58.

10. After hearing both sides and after perusing the records, this Court is of the considered view that, as per Clause (2) (b) and (d) of Notification, the applications in which any portion of the required information is not correctly and completely given will be summarily rejected, and the applications in respect of which prescribed documents and certificates in proper form is received after the due date will be summarily rejected.

11. If there is no specific date in the notification, Rule-12 (3) (a) of Telangana

State and Subordinate Service Rules, 1996 will apply to any recruitment including the impugned notification also.

Rule-12 (3) (a) of Telangana State and Subordinate Service Rules, 1996 as follows:

The minimum General Educational Qualifications wherever referred to in these or special rules shall be the qualifications prescribed in Schedule-II of these rules.

3 (a) Should possess the academic qualifications and experience prescribed, if any, on the date of notification for Direct Recruitment.

12. Admittedly, in the instant case the Respondent No.3 has acquired requisite qualification on 22.06.2018 and the Notification was issued by the respondent No.1 on 20.06.2018 and in view of Rule 12(3) (a) of Telangana State and Subordinate Service Rules, 1996, the Respondent No.3 was not eligible to the post as on the date of notification. Therefore, the judgments relied on by the learned Counsel for the respondent No.3 do not apply to the instant case, as there is a specific provision in the Telangana State and Subordinate Service Rules that as on the date of Notification for direct recruitment should possess academic qualification and experience prescribed, if any. The respondent Nos. 1 and 2 have no power to relax the Telangana State and Subordinate Service Rules, 1996 and cannot replace Respondent No.3 in place of the petitioner in the selection list as the Respondent No.3 obtained degree qualification after the date of notification i.e. on 22.06.2018.

13. In view of the same, the selection of respondent No.3 for the post of Junior Assistant under SC category in pursuance of the Notification Ref. No.A2/240/2013 dated 20.06.2018 issued by respondent No.1, is arbitrary, illegal and violative of condition 12 (3) (a) of Telangana State and Subordinate Service Rules and accordingly the same is set aside.

14. The respondent No.1 is directed to restore the provisional selection list dated 01.02.2020 and consider the case of the petitioner for appointment to the post of Junior Assistant with consequential benefits, within eight (8) weeks from the date of receipt of copy of this Court.

15. With the above directions, this writ petition is allowed. No order as to costs.

16. Miscellaneous Petitions pending, if any, shall stand closed.