
(2000) 09 AP CK 0012
In the Andhra Pradesh High Court
Case No : Writ Petition No. 9560 of 2000

Parvathi G.

APPELLANT

Vs

A.P.S.R.T.C. and Another

RESPONDENT

Date of Decision : 14-09-2000

Acts Referred:

Constitution of India, 1950 — Article 16(2)

Citation : (2000) 5 ALT 714 : (2001) 3 LLJ 208

Hon'ble Judges : D.S.R. Varma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.S.R. Varma, J.—This writ petition is filed for a Writ of Mandamus declaring the action of the respondents in not considering the case of the petitioner for the post of Cleaner, Shramik/Sweeper/Attender or for any suitable post on compassionate grounds, as illegal, unjust and arbitrary and consequently direct the respondents to consider the case of the petitioner for the abovesaid posts on compassionate grounds forthwith.

2. The case of the petitioner is that her husband, who was a Mechanic in the respondent-Corporation died in harness on December 26, 1998 and accordingly she made an application for appointment on compassionate grounds. The grievance of the petitioner is that the respondents are not considering her case for appointment to the post of Cleaner on the ground of gender.

3. The learned Standing Counsel appearing for the respondent - Corporation submitted that in view of the Circular No. PBD-30/2000 dated May 5, 2000, the women were not eligible for the post of Cleaner, since the woman cannot perform the duties of a cleaner and accordingly her case was not considered for the said post.

4. The learned counsel for the petitioner submitted that the woman cannot be discriminated for the said post, inasmuch as the duties of a Cleaner can certainly

be performed by woman and the circular imposing such discrimination is liable to be quashed.

5. Admittedly the petitioner made the application for the appointment on compassionate grounds in time. Further in similar circumstances, a learned single judge of this Court in the decision reported in *M. Rama Mani Vs. Andhra Pradesh State Road Transport Corporation, Hyd.*, relying on another judgment of a learned single judge of this Court in *APSRTC and Another Vs. P. Bala Tripura Sundari*, held as under:

"Clause (2) of Article 16 of the Constitution provides that no citizen shall, on account of only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office in the State. In other words, Clause (2) of Article 16 of the Constitution issues injunction against the State not to discriminate among the applicants for the post solely on the ground of sex among other grounds. The statutory Rules are framed by virtue of power u/s 45 of the Road Transport Corporation Act, 1950 (for short "the Act") governing recruitment to various posts in the Corporation including the post of Cleaner."

6. In the said decision *M. Rama Mani Vs. Andhra Pradesh State Road Transport Corporation, Hyd.*, the learned single Judge virtually directed the respondent - Corporation to consider the case of the petitioner for appointment for the post of Cleaner (Shramik) and communicate their decision to the petitioner therein.

7. In the instant case there is no ground other than the ground of gender, for the Corporation to reject the case of the petitioner for appointment to the post of Cleaner. In view of the above judgments of this Court cited (*supra*), the . said ground cannot be countenanced and is hereby rejected.

8. Further it appears from the circular dated May 5, 2000 the respondent Corporation has prescribed some educational qualifications for the post of cleaner. But in the instant case the right of consideration for appointment has accrued to the petitioner prior to the issuance of the said circular. Therefore in my considered view the educational qualification prescribed by the Corporation under circular dated May 5, 2000 shall not apply to the petitioner.

9. In the result, I direct the respondent-Corporation to consider the case of the petitioner for appointment to the post of Cleaner and communicate the same to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

10. Accordingly the writ petition is allowed. No costs.