
(1996) 04 AP CK 0014

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17152 of 1995

R. Prasad and Another

APPELLANT

Vs

The Executive Director, APSRTC, Cuddapah Zone and Others

RESPONDENT

Date of Decision : 23-04-1996

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1996) 3 ALD 3 : (1996) 3 ALT 42 : (1997) 1 LLJ 28

Hon'ble Judges : G. Bikshapathi, J

Bench : Single Bench

Judgement

1. This Writ Petition is filed seeking Writ of Mandamus declaring the action of the respondents in issuing Notification No. 684 (5)/95-ED "C" dated June 19, 1995, calling for applications for appointment to the post of Junior Assistants by direct recruitment, without exhausting the selected panel already made on June 27, 1991, as illegal and arbitrary and for a consequential direction to appoint the candidates in the panel and thereafter make recruitment for the post of Junior Assistants.

2. The brief facts of the case are as follows :-

The petitioners are Conductors in the Andhra Pradesh State Road Transport Corporation (for short The Corporation). The 1st petitioner was appointed on July 1, 1987 while the 2nd petitioner on July 1, 1986 and they are graduates. While so, a test was conducted for the internal candidates possessing requisite qualifications for appointment to the post of Junior Assistants. Accordingly number of persons including the petitioners attended the test and they were successful in the said test. On July 3, 1991, the Regional Manager Cuddapah, issued Notification No. E1/331(1)/90-RM "C" intimating that 49 persons are selected for the post of Junior Assistants. In the said list the petitioners figured at Serial No. 36 and 41 respectively. Out of the said select list 25 persons were appointed on July 5, 1991 and 8 more persons were appointed as Junior Assistants between the periods from June 25, 1992 to August 27, 1992. The

balance persons are yet to be appointed. While the matter stood thus the Corporation issued a fresh Circular dated June 19, 1995 calling for the applications for filling up the posts of Junior Assistants. The said action of the respondents is being assailed by the petitioners in this Writ Petition.

3. The grievance of the petitioner is that they have been duly selected by the Departmental Selection Committee on June 27, 1991 and they are required to be appointed on the basis of seniority mentioned in the said Select List dated June 27, 1991. Without exhausting the said Select list it is not open to the Corporation to issue a fresh notification calling for application from candidates.

4. In the Counter filed by the corporation it is stated that the Departmental Selection Committee prepared the select list on June 27, 1991 and the panel prepared by the Committee is valid only for a year. Thus, the life of the panel is valid from June 27, 1991 to June 26, 1992. Therefore, the persons who could not be appointed prior to June 26, 1992, cannot be appointed subsequently. It is the case of the Corporation that there was ban on recruitment and in view of the pressing requirements of man power the 2nd respondent sought for permission of the Vice-Chairman and Managing Director on April 1, 1992 for filling up 18 anticipated vacancies. However, the Managing Director sanctioned only 8 posts and the sanction was communicated on June 25, 1992, i.e., one day prior to the expiry of the panel. In the pursuance of the said sanction, only two persons were appointed and the orders were issued on August 5, 1992. In respect of the other six vacancies sanctioned by the Managing Director, the same could not be filled up as the life of the panel has expired.

5. Heard the learned counsel for the petitioners and the learned Standing Counsel for the Corporation.

6. Sri Jayaprakash Rao, learned Counsel for the petitioners submits that once the panel was prepared on June 27, 1991 it should automatically be operated based on the vacancies available, and therefore, issuance of fresh notification calling for the applications for filling up the posts is unwarranted and the said action is illegal and arbitrary. On the other hand, the learned Standing Counsel for the corporation Sri A. V. Sivaiah submits that as per the Rules, the life of the panel is only one year, and therefore, once the life of the panel expires, the persons who are selected and placed in the Select List cannot have any right of appointment. It is not in dispute that 49 persons were selected by the Departmental Selection Committee on June 27, 1991. All the persons could not be appointed, as according to the counter of the respondents, a ban was imposed on recruitment. Even from the counter it is clear that there was further requirement of Junior Assistants for which a requisition was made by the 2nd Respondent on April 1, 1992 seeking permission of the Managing Director for filling up of 18 more anticipated vacancies from among the selected candidates. Therefore, it has to be considered whether a ban on recruitment would operate to the detriment of the persons who are selected by the duly constituted Departmental Selection Committee. If there had been no ban, probably the stand of the corporation

would have been justified. But on account of delay in recruitment due to ban imposed by the Corporation itself, that cannot be taken advantage of by the Corporation and it cannot appropriate and reprobate. From the Circular dated November 5, 1994 the ban was extended upto July 31, 1995 and it was clearly stated that there shall be no recruitment of Junior Clerks without Specific sanction of the Managing Director. Under such circumstances, it cannot be said that the life of the panel expired after one year. Thus, the life period of a panel shall be deemed to have been extended by the period of ban.

7. Keeping in view the fact that the Managing Director has cleared eight posts as on June 25, 1992 and a separate notification has been issued on June 19, 1995, it has to be held that there are vacancies in the post of Junior Assistants and therefore, until and unless the panel is exhausted it would not be appropriate for the Corporation to go for fresh recruitment among the in-service candidates. Articles 14 and 16 of the Constitution of India do not approve such an action by the Corporation.

8. Under these circumstances, I am inclined to allow the Writ Petition and direct the respondents to issue appointment orders to the candidates including the petitioners who are placed in the Selection List prepared by the Departmental Selection Committee dated June 27, 1991 and after exhausting the said candidates, it is open for the Corporation to proceed further with the fresh recruitment in accordance with the Rules and Regulations. This exercise should be done within a period of two months from the date of receipt of copy of this order.

9. The Writ Petition is accordingly allowed. There shall be no order as to costs.