
(1999) 07 AP CK 0090

In the Andhra Pradesh High Court

Case No : Writ Petition No. 7091 of 1999

Rajulapati Sai Prasada Rao

APPELLANT

Vs

Regional Manager, APSRTC and Another

RESPONDENT

Date of Decision : 21-07-1999

Acts Referred:

Citation : (1999) 4 ALT 380

Hon'ble Judges : T.Ch. Surya Rao, J

Bench : Single Bench

Advocate : S.M. Subhan, for the Appellant; C.V. Ramulu, S.C., for the Respondent

Judgement

T.Ch. Surya Rao, J.—The petitioner assails the order of the respondents passed in Proceedings No. L1/876(16)/97-RM/WG dated 23-7-1997, whereunder his claim for absorption as the fourth Conductor in APSRTC has been rejected, as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution. Simultaneously, the petitioner seeks a direction from this Court to the respondents to appoint him in the Corporation as a Cleaner or in any suitable post.

2. According to the petitioner, he worked as a Conductor/Cleaner in the private buses bearing Nos. ABW 7996, AAV 965 and ATW 569, which plied on the routes from Kommara - Venkataramannagudem via T.P. Gudem and Tadepalligudem - Dandagarra via Juvvalapalem and those routes having been subsequently nationalised with effect from 1-10-1988, he lost his employment. It is his further case that as a matter of policy, the Corporation has been absorbing the displaced employees only to rehabilitate them. Since his case was not considered by the Corporation, he filed W.P. No. 5867 of 1997.

3. This Court, while disposing of the said writ petition on 25-3-1997, gave a direction to the Corporation to the following effect:

"In these circumstances, the writ petition is disposed of with a direction that the respondents shall consider the case of the petitioner for absorption as the 4th

Conductor with reference to the existing vacancies, provided he fulfills other conditions laid down for absorption. This exercise shall be done within a period of two months from the date of receipt of a copy of the order."

That order has become final having not been challenged in appeal. Pursuant to that order, the petitioner was called on 24-6-1997 before the Departmental Selection Committee asking him to produce material evidence in support of his claim for absorption. Under the impugned order dated 23-7-1997, the Committee, while taking into consideration the direction given by this Court and the instructions issued by the Corporation from time to time in regard to the absorption of displaced employees, as the petitioner failed to produce the letter of appointment, service certificate issued by the owner or any certificate issued by the Labour Department or wage slips, vehicle check reports or any other material evidence to prove his case, had ultimately rejected his claim.

4. The learned Counsel for the petitioner submitted that the petitioner in fact produced trip sheets and a certificate issued by the Assistant Labour Officer, Tadepalligudem dated 6-4-1994, but the Committee failed to consider the same. The learned Counsel relied upon a judgment of this Court in E. Chandraiah v. Divisional Manager, APSRTC 1997 (1) An.W.R. 395 and contended before me that it was not germane for the Corporation to have insisted a displaced employee to produce such documents, which he could not produce. This Court, in the said judgment held in para 6 as follows:

"It is common knowledge that the Check Reports, Trip Sheets and Wage Bills and Muster Rolls are kept by the owner of the vehicle and the employee is not expected to maintain and preserve such documents. Therefore, it would be wholly irrelevant for the Corporation to insist the displaced employees to produce such documents which they could not possess. That is the reason why the Circular itself stipulates that the certificate issued by the Labour Enforcement Officer being necessary to establish the services of the petitioner under the private employer."

The learned Counsel for the petitioner submits that the certificate issued by the Assistant Labour Officer, a copy of which is made available along with the material papers, has also been submitted before the Committee. As can be seen from the impugned order the petitioner has not produced the same. The learned Standing Counsel for the Corporation contended that the petitioner cannot re-agitate the matter having failed to produce the relevant documents before the Committee. In support of his contention, he relied upon a judgment of this Court in R. Mallesu and another Vs. Regional Manager, APSRTC, Srikakulam Region and another, wherein a learned single Judge of this Court held that pursuant to the direction given by the High Court, if the Selection Committee met and rejected the claim of the petitioner on merits, the petitioner could not re-agitate the same by filing another writ petition. The learned Standing Counsel also relied upon the judgment of the Apex Court in Managing Director, APSRTC and Anr.v. S.P. Satyanarayana AIR 1998 SCW 2812. In a short judgment, the Apex Court held

that the High Court should not have given any direction for absorption, as it was not the case of the respondent that action of the Corporation was arbitrary or otherwise violative of Article 14 of the Constitution and more so, when the respondent had not challenged the validity of the test or the result. However, the Apex Court ultimately, while parting with the matter, directed the Corporation to give an opportunity to the respondent to appear again to the test to ascertain his eligibility. In the instant case, the grievance of the petitioner is that the Committee failed to consider the documents produced by him, albeit they were not the documents enumerated by the Corporation in its counter. It is not as though the petitioner has not been given any opportunity. The action on the part of the respondents cannot, therefore, be held to be illegal. However, considering the circumstances and the fact that the petitioner seeks employment so as to eke out his livelihood, it is expedient in the interest of justice to give him an opportunity to produce the necessary documents, which according to the learned Counsel, have not been considered by the Corporation. They are the trip sheets and the certificate given by the Assistant Labour Officer. It is, therefore, necessary in the interest of justice, to direct the respondents to give the petitioner another opportunity to produce the documents, namely, the trip sheets and the certificate issued by the Assistant Labour Officer. This is, however, subject to the other conditions of eligibility as directed by this Court earlier. The respondents shall act within a period of two months from the date of receipt of a copy of this order. The writ petition is, therefore, disposed of accordingly. In the circumstances, no costs.