
(1991) 12 AP CK 0001

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6461 of 1988

S. Padma Rao and Others

APPELLANT

Vs

Electronics Corpn. of India Ltd.

RESPONDENT

Date of Decision : 31-12-1991

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 ALT 469

Hon'ble Judges : Iyyapu Panduranga Rao, J

Bench : Single Bench

Advocate : B.S. Reddy, for the Appellant; K. Srinivasa Murthy, S.C., for the Respondent

Judgement

Iyyapu Panduranga Rao, J.—This writ petition is directed for the issue of writ of mandamus directing the respondent-Corporation to promote all the petitioners as Assistant Officers with retrospective effect from 1984-85 series.

2. All the petitioners have been recruited as Lower Division Clerks in the service of the Respondent-Corporation. Subsequently they were promoted initially as Upper Division Clerks and later as Assistants. The next stage of promotion is Assistant Officers for which the minimum period is three years of standing as Assistants. The normal practice of the respondent-Corporation is to promote 20% of the eligible Assistants as Assistant Officers subject to the passing of the Departmental Promotion Committee test and also oral interview test. All the petitioners have been put in more than three years of service i.e., the minimum period of service required for eligibility to get promotion as Assistant Officers in 1983-84 series itself. The promotions with regard to 1983-84 series were finalised in August 1985. But, none of the petitioners were selected as Assistant Officers, as such the petitioners have filed this writ petition for the reliefs mentioned above.

3. The main contention of the writ petitioners is two fold. Firstly that unless and until the candidates selected in a particular series are exhausted, the next

selection should not take place and secondly that 60% of the marks were allotted to the oral test and confidential reports which are contrary to the provisions of Articles 14 and 16 of the Constitution of India.

4. Before proceeding further, it is to be seen that the first contention raised on behalf of the petitioners viz., that unless and until the previous list is exhausted, no fresh selections could take place, has no basis for the reason that Sri K. Srinivasa Murthy, learned counsel for the respondent-Corporation submits that depending on the number of vacancies available and likely to arise the Departmental Promotion Committee will select the candidates to be promoted in the order of merit for that particular series. Thus the question of not exhausting the list does not arise.

5. Out of 100 marks, admittedly 40% of the marks were allotted for written test, 30% of the marks were allotted for confidential reports and 30% of the marks were allotted for oral interview. This is not in dispute.

6. Sri L. Prabhakara Reddy, the learned counsel appearing for the petitioners submits that allotting 30% of the Marks for oral interview is contrary to the provisions of Articles 14 and 16 of the Constitution of India and the same is also contrary to the number of decisions of the Supreme Court. On the contrary Sri K. Srinivasa Murthy, learned counsel appearing for the respondent-Corporation submits that this Court in the matters arising between the respondent-Corporation and its employees held that allotment of 30% of the marks for the oral interview is not unreasonable.

7. It is beyond controversy that viva voce examination is a permissible test for selection of candidates. This aspect is not at all in dispute. But what percentage of marks should be given in the oral interview is the main point for consideration in this writ petition.

8. W.P. No. 13914/87 is a case where the petitioners therein are the Sales Assistants working under the respondent-Corporation and they seek promotion to the next higher post of Assistant Sales Officers. The petitioner in W.P.No. 13274/87 was working as Senior Section Assistant and he was seeking promotion to the post of Assistant Sales Officer. The Petitioners in the said two writ petitions contended that allotment of 30% of the marks for viva voce is arbitrary and contrary to the provisions of Articles 14 and 16 of the Constitution of India. Before the learned Judge, number of judgments of the Supreme Court including the landmark case *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, were cited. Having considered all the Judgments, Justice Amareswari held that allotment of 30% of the marks under viva voce is not unreasonable. Therefore, the above said writ petitions were disposed of as per the common Judgment dated 5-8-88 and the said judgment was upheld by a Division Bench of this Court as per judgment dated 14-2-89 in W.A.No. 131-89. It is to be noted that W.P. Nos. 13914/87 and 13274/87 are matters between the employees of the respondent-Corporation and the respondent-Corporation regarding promotion

which is also directly in issue in the present writ petition.

9. In Writ Petition Nos. 13274/87 and 13914/87, it was also held that allotment of 30% of the marks for confidential reports is also not bad for the reason that in matters relating to promotion, the past performance including character and conduct of the candidate is a very relevant factor. As a matter of fact, in these proceedings, allotment of 30% of the marks for confidential reports is not at all disputed.

10. On behalf of the petitioners, strong reliance is placed on the judgment of this Court in W.A.No. 331 /89 and batch and W.P.No. 644/89 disposed of as per judgment dated 26-12-90 wherein it was observed as follows: "We have held that allocation of 25% weightage for interview was on a high side and direct that it shall be reduced to 15%. In Ajay HasiaKhalid Mujab (1 supra) it was held that the allotment of more than 15% of the marks in the viva voce would be arbitrary and unreasonable. But, Justice Amareswari distinguished Ajay Hasia's case with other cases on the ground that the said cases relate to admissions to colleges. Of course in Ajay Hasia's case it was mentioned that the said observations will apply to matters of public employment also.

11. Hence, in view of my above observations, I find that the petitioners are not entitled for any relief. But since the candidates for 1984-85 series were already selected and they have been working and basing on the observations made in Ajay Hasia's case and the judgment of this Court in W.A.No. 331/89 and batch and W.P.No. 644/89 dt.26-12-90, henceforth for oral examination the respondent-Corporation shall allot not more than 15% of the marks for viva voce while including the remaining 15% of the marks to the written examination.

12. With these observations, the writ petition is disposed of. No costs.