
(1992) 04 AP CK 0032
In the Andhra Pradesh High Court
Case No : W.A. No. 1362 of 1991

Srinivasalu C.

APPELLANT

Vs

Executive Officer, Tirumala Tirupati Devasthanams and
Another

RESPONDENT

Date of Decision : 13-04-1992

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1999) 3 LLJ 1452

Hon'ble Judges : S.C. Pratap, C.J.; Subhashan Reddy, J

Bench : Division Bench

Advocate : G. Gopala Rao and M.V.S. Saikumar, for the Appellant; M. Srinivasa Rao and Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Pratap, C.J.—Question here involved is squarely covered by Division Bench ruling of this Court in Writ Appeal No. 36/1992 dated March 9, 1992. Learned Counsel, however, submits that the said decision needs to be reconsidered.

2. Hearing Counsel on either side at some length and going through the Supreme Court ruling in Union of India (UOI) and Others Vs. N. Hargopal and Others, , we see justification for considering the aforesaid Division Bench ruling of this Court. In fact, this very Supreme Court ruling has been referred to in the above judgment and constitutes one of the bases of the said judgment.

3. Respondent-Devasthanam was perfectly within its right while recruiting attenders to state that only those sponsored by the Employment Exchange will be considered. This in a way regulates the mode of recruitment and eliminates to the extent reasonably possible element of arbitrariness in the matter of recruitment and appointment. As observed by this Court in, the Division Bench ruling supra,--

"...The stand of the Devasthanam has been that, as and when it becomes

necessary to appoint Attenders in Class-IV category, the procedure followed is to notify the vacancies of the posts and consider only those who are sponsored by the Employment Exchange. We see nothing illegal or invalid therein. On the contrary, it regulates the process of recruitment and reduces to the minimum, if not extinguishes, the scope for any arbitrariness in the matter of such appointments."

4. As further observed in the said judgment:

"Thus, while the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 (Act 31 of 1959), does not, in express terms, apply to the Devasthanam herein, nothing prevents the Devasthanam from considering, as and when occasion so. arises, only candidates sponsored by or through the Employment Exchange. If the Devasthanam decides otherwise, a writ may not lie to compel it to do so.

But if it decides to consider candidates sponsored only by or through the Employment Exchange, writ or direction to the contrary cannot be issued against it....."

5. Moreover, in the present case, the petitioner- appellant was, in fact registered with the Employment Exchange. His name was not sponsored for reasons not necessary, for the purpose of this judgment. Several cases come to light where a number of Class-IV posts are filled up without any guidelines and rather arbitrarily, ignoring claims of those regularly registered with the Employment Exchange. Selection, recruitment and appointment of candidates not registered with Employment Exchange or not sponsored by the Employment Exchange thus result in giving scope for arbitrariness and favouritism in the matter of recruitment and appointment. There is some guarantee when only candidates sponsored through Employment Exchange are considered. It controls arbitrariness. It also provides element of justness and fairness.

6. As observed by the Supreme Court in its ruling supra:

".....it is necessary to eliminate arbitrariness and favouritism and introduce uniformity of standards and orderliness in the matter of employment. There has to be an element of procedural fairness in recruitment. If a public employer chooses to receive applications for employment where and when he pleases, and chooses to make appointment as he likes, a grave element of arbitrariness is certainly introduced. This must necessarily be avoided if Articles 14 and 16 and 16 have to be given any meaning. We, therefore, consider that insistence of recruitment through employment exchanges advances rather than restricts the rights guaranteed by Articles 14 and 16 of the Constitution."

7. In the result, we see no good reason to differ from what has already been settled and held in the aforesaid Division Bench ruling of this Court. Learned single Judge from whose order the present appeal is filed was, in the circumstances, well justified in passing the impugned order. This appeal therefore

fails and is dismissed. No order as to costs.