
(2023) 04 TEL CK 0036

In the Telangana High Court

Case No : Writ Petition Nos. 24876, 24915 Of 2018

Sudharshan V

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 12-04-2023

Acts Referred:

A.P. State & Subordinate Service Rules, 1996 — Rule 6, 22

Citation : (2023) 04 TEL CK 0036

Hon'ble Judges : E. V. Venugopal, J

Bench : Single Bench

Advocate : Ramesh Chilla, Ram Gopal Rao

Final Decision : Dismissed

Judgement

1 Heard Sri Ramesh Chilla, learned counsel for the petitioner and the learned Government Pleader for Social Welfare and Sri Ram Gopal Rao, learned standing counsel for TSPSC, for the respondents.

2 Since the point involved in both the writ petitions is one and the same, these two writ petitions are being disposed of by this common order. For the sake of convenience, I refer to the facts mentioned in W.P.No.24876 of 2018.

3 The contention of the learned counsel for the petitioner is that pursuant to the notification No.9/2015 issued by the sixth respondent dated 29.05.2015 for the posts of Assistant Engineers in various Engineering Subordinate Services, Municipal Assistant Engineers and Technical Officers in Public Health and Municipal Engineering Subordinate Service, the petitioner has applied for the same. Although the notification was issued for 37 vacancies under physically handicapped quota, results were announced only for 16 vacancies and his case was not considered on the ground of non-availability of vacancies. Apart from the above, the 12 women posts were also not filled due to non-availability of the candidates.

4 The learned counsel for the petitioner further submits that as per

G.O.Ms.No.99 dated 04.02.2013 for filling up of unavailable women vacancies with the men candidates of the same category of disabled, but the same was not considered by the respondent No.6. The petitioner made a representation on 23.08.2016 requesting to consider his candidature in terms of G.O.Ms.No.6 dated 12.04.2016 for filling up the remaining vacancies under PH quota. The learned counsel for the petitioner submits that when there are vacancies existing in the general and none of the posts of PH (W) were unfilled due to non-availability of the candidates, there is no justification for the sixth respondent in rejecting the case of the petitioner. The learned counsel for the petitioner further contended that the vacancies reserved for disabled person shall be carried forward to the succeeding recruitment year where the suitable persons are not available and in succeeding recruitment year also the qualified candidates are not available for filling up the posts, the vacancies shall be filled by interchanging with other groups of disabled persons without any need to issue another notification in that regard.

5 The learned counsel for the petitioner further submits that G.O.Ms.No.99 dated 04.03.2013 was in force at the time of issuance of the notification dated 28.08.2015. The said G.O. made certain amendments to Rule 22 of the A.P. State & Subordinate Service rules, which categorically clarifies the interchangeability among women and general categories – 'provided that if qualified women candidates are not available for the posts reserved for women, qualified men candidates of the same category of disabled may be appointed.

6 On the other hand, the learned standing counsel for the Telangana State Public Service Commission submitted that the recruitment relates to the year 2015 and that the Commission has notified a total number of 1058 vacancies including Assistant Engineers (Civil) and Assistant Engineers (Mechanical) out of which 37 vacancies were notified under PH quota. It is further submitted that the petitioner belongs to OH category and that he is not eligible to the Post Code No.02 as he did not possess computer course 'O' level qualification and he is also not eligible for Post Code No.08 as it is meant for the candidates having the qualification of mechanical engineering. It is specifically contended that the unfilled vacancies caused due to non-availability of eligible candidates are the vacancies of HH and VH categories and the petitioner is not eligible to be considered for these vacancies as he belongs to OH category.

7 The learned standing counsel further submitted that (HH) (G) local vacancy in Zone-VI is carried forward from previous notification to the present notification No.09/2015, however, this vacancy shall be notified in the next notification as per G.O.Ms.No.99 dated 04.03.2013 and Rule – 6 of the Rules of procedure as there is no eligible candidate available to be considered for this post.

8 The learned standing counsel further submitted that G.O.Ms.No.99 dated 04.03.2013 made certain amendments to the Rule 22 of the A.P.State & Subordinate Service Rules as per which it is clear that the question of interchanging the vacancy does not arise in the initial recruitment as the unfilled

vacancies of the initial recruitment will be carried forward to the succeeding recruitment year and in that succeeding recruitment year also if qualified candidates of the same category are not available, then the same shall be again notified in the next notification to be filled up by interchanging from among the three categories so that the candidates who are of the other category to that of notified vacancy will also apply to be considered if there is no eligible candidate available in the notified category in third notification also. Even though when there is no person with disability of any of the three categories available for the post, then the vacancy shall be filled up by appointment of a person other than a person with disability, provided that if qualified women candidates are not available for the posts reserved for women, qualified men candidates of the same category of disabled may be appointed.

9 The learned standing counsel further submitted that the Government had issued G.O.Ms.No.6 dated 20.07.2018 for making amendments to Rule 22 of the Telangana State & Subordinate Service Rules and accordingly G.O.Ms.No.96 dated 22.07.2019 was issued by making amendments to the above said Rules. In that it was observed that 'if qualified women candidates are not available for the posts reserved for women in the initial recruitment year, the vacancy shall be filled up by the male candidate with the same category of disabilities of that roster point without carrying the vacancy forward to the next year'. But his contention is that the latest amendments to Rule 22 were made on 22.07.2019, whereas the impugned notification was 09.2015 issued on 28.08.2015. Therefore, the latest amendments which were made to Rule-22 on 22.07.2019 will not be applicable to the notification issued in the year 2015 as the said notification was issued in 2015 and was concluded in the year 2016. As such the petitioner is not entitled to seek selection to the post earmarked for women which is against the Rules and GOs in force as on the date of issuance of notification and cannot seek to consider his case as per the latest amendments made to Rule 22 as the latest amendments were made after issuance of the said notification.

10 The learned counsel relied on the G.O.Ms.No.10 dated 30.08.2018 and contended that if qualified women candidates are not available for the posts reserved for women in the initial recruitment year, the vacancy shall be filled up by the male candidates with the same category of disabilities of that roster point without carrying the vacancy forward to the next year and contended that when women disabled candidates were not available the respondent authorities ought to have considered the candidature of the petitioner.

11 Having regard to the rival contentions made by the learned counsel on either side, this Court is of the considered view that the petitioner is not entitled to the relief sought for, for the reasons that firstly, the petitioner is possessing the qualification of LCE, whereas the required qualification for the post is mechanical engineering. Secondly, the amendments which the petitioner wants to project were made subsequent to the notification. The latest amendments to Rule-22 of

the Telangana State & Subordinate Service Rules were made on 22.07.2019 with prospective effect only whereas the impugned notification was of the year 2015. As such it is clear that the latest amendments to Rule – 22 were made after issuance of the impugned notification No.09/2015 and the final results were announced in August, 2016. Hence the latest amendments, which were made to Rule-22 on 22.07.2019 with prospective effect, will not be applicable to the impugned notification as the resultant vacancies if any shall be carried forward to the next notification and since the latest amendments were made with prospective effect. Therefore, question of interchanging the vacancy does not arise as G.O.Ms.No.99 dated 4.03.2013 was in force as on the date of issuance of the impugned notification which governs the terms and conditions.

12 For the foregoing discussion, this Court is of the considered opinion that the petitioner is not entitled to the relief sought for. In consequence thereof, the petitioner in the other writ petition i.e. W.P.No.24915 of 2018, who also stands on the same footing, is also not entitled to the relief sought for.

13 Accordingly, both the writ petitions are dismissed. No order as to costs.

14 Miscellaneous petitions if any pending in these writ petitions shall also stand dismissed.