

(2022) 03 TEL CK 0004

In the Telangana High Court

Case No : Writ Appeal Nos. 465 Of 2020, 58 Of 2021

Telangana Residential Educational

APPELLANT

Vs

Saluvadi Sumalatha And Another

RESPONDENT

Date of Decision : 03-03-2022

Acts Referred:

Citation : (2022) 03 TEL CK 0004

Hon'ble Judges : Satish Chandra Sharma, CJ;Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : J R Manohar Rao

Final Decision : Dismissed

Judgement

1. These two Writ Appeals are filed aggrieved by the order passed in W.P.No.947 of 2020 dt.04-09-2020.
2. Heard the learned Advocate General appearing for the appellant in W.A.No.465 of 2020 and Sri Ch. Venkat Raman, learned counsel for the appellant in W.A.No.58 of 2021 and Sri J.R.Manohar Rao, learned counsel for the 2nd respondent in both the Writ Appeals.
3. The facts as stated in W.A.No.58 of 2021 are hereunder discussed for the convenience.
4. The appellant, who is the 2nd respondent in W.P.No.947 of 2020, had contended that she has filed the Writ Petition contending that she is a member, belonging to Zone-V and she is also a member belongs to Schedule Caste community. It has been further contended by the appellant that she and the Writ Petitioner/2nd respondent were fully eligible and qualified to be appointed to the post of Junior Lecturer under Telangana Residential Educational Institutions Recruitment Board (for short 'TREI-RB') and the TREI-RB issued recruitment notification for filling up various posts of Junior Lecturers in various disciplines vide Notification No.3 of 2018 dt.31-07-2018. The appellant had further

contended that she and the 2nd respondent have responded to the said recruitment notification and she has secured more marks than the 2nd respondent and she was declared to have secured rank No.35 whereas the 2nd respondent/Writ Petitioner was declared to have secured rank No.49. As the appellant is belonging to Zone-V, she has given 1st option to Zone-V and 2nd option to Zone VI. The TREI-RB has selected and appointed the appellant as Junior Lecturer in Zone-VI against SC (W) roster point. The Writ Petitioner/2nd respondent has challenged the selection of appellant by filing W.P.No.947 of 2020 before this Court and the learned Single Judge of this Court was pleased to allow the Writ Petition and the selection and appointment of the appellant as Junior Lecturer in Zoology in Zone-VI was set aside and the TREI-RB was directed to redraw the merit list for the post of Junior Lecturer in Zone-VI comprising local candidates of Zone-VI only, to the vacancies earmarked to be filled up by local candidates of Zone-VI and if the 2nd respondent is found to be the next meritorious candidate, to appoint her against the said post. Aggrieved by the same, the TREI-RB has filed W.A.No.465 of 2020 and the 2nd respondent in Writ Petition has filed W.A.No.58 of 2021.

5. The appellants had further contended that the posts which were notified by the TREI-RB were to be filled up by following A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 (for short 'the Presidential Order') and the posts of Junior Lecturers are to be filled up in the ratio of 30:70, and 30% are meant for unreserved and 70% are to be filled up by the local candidates.

6. Admittedly in the instant case, as the appellant in W.A.No.58 of 2021 has secured more marks than the 2nd respondent/Writ Petitioner, the TREI-RB has rightly appointed the appellant as Junior Lecturer in Zoology. Therefore, appropriate orders be passed in the Writ Appeals by setting aside the orders of the learned Single Judge in W.P.No.947 of 2020 dt.04-09-2020 with all consequential benefits.

7. Learned Advocate General appearing for TREI-RB had contended that the appellant in W.A.No.58 of 2021 was rightly appointed in the post of Junior Lecturer in Zoology as she has secured more merit than the 2nd respondent/Writ Petitioner and as per the options of the appellant, the appellant was adjusted in Zone-VI. Therefore, learned Single Judge erred in interfering with the selection and appointment of the appellant and appropriate orders be passed in the Writ Appeals by setting aside the orders of the learned Single Judge and uphold the appointment of the appellant as Junior Lecturer in Zoology.

8. Learned counsel for the 2nd respondent in W.A.No.58 of 2021/Writ Petitioner has contended that the Writ Petitioner belongs to Schedule Caste community and also a member belonging to Zone-VI and there were more meritorious candidates than the appellant in W.A.No.58 of 2021 in Zone-VI and the unreserved vacancies were to be filled up with more meritorious candidates than the appellant and admittedly in the instant case, there were three meritorious

candidates than the appellant in Zone-VI, and the persons who have secured more merit than the appellant have to be adjusted against unreserved category and fill up next 70% of the vacancies with local candidates by following the Presidential Order.

9. The learned counsel for the 2nd respondent had further contended that admittedly, in the instant case, the appellant is a member belongs to Zone-V and she has to be considered only in Zone-VI against SC (W) roster point and the appellant could not have been accommodated against 30% of vacancies made for unreserved candidates. The appellant is not coming within the meritorious category to be considered under unreserved as there were three more candidates having secured more merit than the appellant and when the unreserved posts are to be filled up by both local and non-local candidates, the appellant could not have been appointed in Zone-VI under unreserved category. Therefore, there are no merits in the Writ Appeals and the same are liable to be dismissed.

10. This Court having considered the rival submissions made by the parties is of the considered view that the learned Single Judge has given a specific finding that there were three more meritorious candidates than the appellant (in W.A.No.58 of 2021) in Zone-VI and when those three meritorious candidates were available, they ought to have been adjusted against the 30% meant for unreserved category and there was no fourth vacancy to be filled up with unreserved category i.e. forming part of 30% for unreserved category. When there is no such post to be filled up under unreserved category beyond three, the TREI-RB could not have appointed the appellant (in W.A.No.58 of 2021) as a Junior Lecturer in Zoology in Zone-VI ignoring the legitimate claim of the 2nd respondent/Writ Petitioner as admittedly the 2nd respondent/Writ Petitioner belongs to Zone-VI and she has to be adjusted in the 70% quota as prescribed by the Presidential Order and the learned Single Judge has rightly set aside the appointment of the appellant. However, the learned Single Judge gave liberty to the appellant to submit an application to the TREI-RB to consider her appointment as a Junior Lecturer in any existing vacancy and it is for TREI-RB to consider the case of the appellant and pass appropriate orders in any existing vacancy. The learned Single Judge has dealt with the case very elaborately and given cogent reasons while allowing the Writ Petition filed by the 2nd respondent/Writ Petitioner in the following manner:

"22. At this stage, learned counsel for respondent no.2 contended that there are unfilled vacancies and she can be continued in service even after accommodating the petitioner. No opinion can be expressed on this plea. As per the settled principle of law on recruitment and operation of merit list, it is clear that merit list has to be drawn to the extent of vacancies notified, keeping in mind principle of reservation as per social reservation and as per the Presidential Order. Once merit list is exhausted and all the candidates included in the merit list are appointed, the recruitment process comes to end. If a person on appointment

does not join the post or joins, but relinquishes the post, they become resultant vacancies and required to be notified whenever next recruitment takes place. A next meritorious candidate can stake claim against notified vacancies, if no appointment order was issued/provisional selection and appointment is cancelled/ candidate appointed found to be ineligible to fill a particular slot (as in this case). It is for the 1st respondent to verify and take appropriate action.

23. However, liberty is granted to 2nd respondent to file an application before the 1st respondent to consider her appointment as Junior Lecturer (Zoology) in any existing vacancy and it is for the 1st respondent to consider such request. It is made clear that the decision in this case is confined to validity of appointment of 2nd respondent against vacancy reserved for SC (Women) in Zone-VI though she is not a local candidate of Zone-VI.

24. The Writ Petition is accordingly allowed. The selection and appointment of the 2nd respondent as Junior Lecturer in Zoology in Zone-VI is set aside. The 1st Respondent is directed to redraw the merit list for the post of Junior Lecturer [Zoology] in Zone-VI comprising local candidates of Zone-VI only, to the vacancies earmarked to be filled up by local candidates of Zone-VI and if the petitioner is found to be the next meritorious candidate, to appoint her against the said post. Pending miscellaneous petitions, if any, shall stand closed. "

11. Hence, this Court is not inclined to interfere with the well reasoned order of the learned Single Judge. Both the Writ Appeals fail and accordingly they are dismissed. However, it is once again reiterated that as it was held by the learned Single Judge, it is always open for the appellant in W.A.No.58 of 2021 to submit representation to the TREI-RB to consider her case against any of the unfilled vacancies and upon such representation being made, the TREI-RB shall consider the same and pass appropriate orders in accordance with law. Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.