

(2013) 01 SC CK 0119

In the Supreme Court Of India

Case No : Civil Appeal No. 619 of 2013 (Arising out of S.L.P. (C) No. 4424 of 2011)

The Managing Director, TNSCTC and Another

APPELLANT

Vs

R.S. Kavitha and Others

RESPONDENT

Date of Decision : 18-01-2013

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2013) 3 ALLMR 991 : (2013) 2 SLJ 6

Hon'ble Judges : Surinder Singh Nijjar, J; Anil R. Dave, J

Bench : Division Bench

Advocate : T. Harish Kumar, Shalu Sharma

Final Decision : Allowed

Judgement

1. Leave granted.
2. We have heard the learned Counsel for the parties and also perused the impugned judgment passed by the High Court.
3. It is not disputed that Respondent No. 1 - R.S. Kavitha does not fulfill the height qualification as prescribed for appointment to the post of Conductor under Rule 59(b) of the Appendix-III of the Service Rules. In spite of Respondent No. 1 - R.S. Kavitha not fulfilling the aforesaid qualification, a direction has been issued by the learned Single Judge to the Appellant-Corporation to consider her candidature, which has been upheld by the Division Bench of the High Court.
4. We are unable to subscribe to the views expressed by the High Court. Such relaxation in the height qualification unless provided for in the recruitment rules and given due publicity in the notification inviting applications would be in violation of the Rules. This apart, it would be in violation of Article 14 of the Constitution of India as numerous other candidates, who would be below the prescribed height, might have not applied for the advertised post. The impugned judgment of the High Court does indicate the existence of any provision of

relaxation of the minimum height criteria. The learned Counsel for the Respondents has also not pointed out any provision in the recruitment rules providing for relaxation of any qualification. Therefore, it is not possible to uphold the direction in relation to Respondent No. 1. So far as Respondent No. 2 - M. Revathi is concerned, it is stated by the learned Counsel for the Appellants that her candidature was rejected only because she had failed to produce the necessary certificate showing that she was qualified to administer First Aid, at the time of interview. This is not a mandatory requirement either under the recruitment rules or any statutory instructions. In any event, learned Counsel for the Appellants has accepted that her candidature can be considered, provided she produces the necessary certificate even at this stage. It is accepted that she fulfils the prescribed qualifications under the rules. In view of the above, we see no reason as to why her candidature cannot be considered upon such a certificate being produced by Respondent No. 2 - M. Revathi.

5. The impugned judgment of the High Court cannot be sustained so far as it relates to Respondent No. 1 and the same is set aside. The appeal is partly allowed. No costs.