

(2010) 08 AP CK 0114
In the Andhra Pradesh High Court
Case No : Writ Petition No. 18578 of 2010

Thota Srinivasa Rao	Vs	APPELLANT
The Director, Telugu Academy and Another		RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16
Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 — Section 4(1), 7

Citation : (2010) 5 ALD 736 : (2010) 6 ALT 231 : (2010) 127 FLR 1053 : (2011) LLR 138

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : B.P. Raju, for the Appellant; GP for Labour, for the Respondent

Judgement

Nooty Ramamohana Rao, J.—The petitioner herein seeks consideration of his candidature for employment with the respondent Telugu Academy in its Office/establishment in the State.

2. It is not in dispute that the respondent Academy has been established by the State for the purpose of promotion of Telugu language and literature.

3. Therefore, the employment in such an organization partakes with it the characteristics of public employment. In accordance with Articles 14 and 16 of our Constitution, every eligible candidate has got a right to compete against the public employment.

4. The Parliament enacted the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 to give statutory effect to the recommendations made by The Training and Employment Services Organization Committee, to the following effect:

(a) that employers should be required on a compulsory basis to the Employment Exchanges all vacancies other than vacancies in unskilled categories, vacancies

of temporary duration and vacancies proposed to be filled through promotion;

(b) that employers should also be required on a compulsory basis to render to the employment exchanges staff strength returns at regular intervals.

5. As per Sub-section (1) of Section 4 of the Act, the employer in every establishment in public sector before filling up any vacancy in employment of that establishment shall notify the vacancy to the prescribed Employment Exchange. Failure to do so would attract the penalties specified in Section 7 of the said Act. While the provisions of the Employment Exchanges Act, 1959 requires the vacancies in public employment to be compulsorily notified to the Employment Exchange concerned, but the choice of consideration of candidature by the employer shall not be confined only to those who have been sponsored by the Employment Exchange. The main thrust supplied by the enactment was to ensure that the Employment Exchanges established are compulsorily notified. That would provide an opportunity for them to sponsor the names of the candidates, who have already been enrolled with them. Therefore, every employer is required to consider all such candidates, who are sponsored by the Employment Exchange concerned. But at the same time, the fundamental rights guaranteed to the citizens who possess the necessary eligibility criteria cannot be curtailed for competing against public employment. Therefore, the respondent Academy has to necessarily advertise the vacancy. It shall not conceal or confine or withhold the vacancy position from public knowledge. The nexus between the percolation of information relating to public employment to only few resourceful individuals and their eventual selection will erode the confidence of general public in the transparent and fair procedure which is liable to be adopted in the matter of selection of candidates. Therefore, it is essential that every vacancy relating to public employment shall be notified not only on the notice board of the institution concerned but it must also be advertised over public media, such as All India Radio and Doordarshan and also preferably through locally circulated newspapers. The essential aim should be to ensure that wider publicity is given to catch the attention of the prospective employment seekers. All such candidates, who possess the necessary eligibility criteria shall be subjected to the selection process and the same cannot be confined either to those who have been sponsored by the Employment Exchange or those who have the financial capacity to approach this Court.

6. Therefore, the 1st respondent is directed to forthwith take all such necessary steps to advertise the vacancies that are now sought to be filled in as well as those which are likely to arise in future on the All India Radio and Doordarshan as well as by publishing the same on the notice board of the office/establishment concerned and also through the local media.

7. The 1st respondent authorities should devise appropriate fair and equitable eligibility criteria with regard to the age and educational qualifications, which will ensure a fair competition for the in-service candidates, if any, who have been working against these very vacancies in the past.

8. With this, the Writ Petition stands disposed of. No costs.