

(1993) 01 AP CK 0001
In the Andhra Pradesh High Court

V. Krishna Samudram

APPELLANT

Vs

East Godavari Division, Andhra Pradesh State Road Transport Corporation, Kakinada and Another

RESPONDENT

Date of Decision : 30-01-1993

Acts Referred:

Evidence Act, 1872 — Section 114

Citation : (1994) 1 ALT 201 : (1993) 1 APLJ 112

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Judgement

B. Subhashan Reddy. J.

1. This writ petition is filed for the issuance of a writ of mandamus for appointment to the post of Conductor in the service of APSRTC. Pursuant to the notification dated 15-10-1987 inviting applications for the said recruitment, the last date having been set as 27-10-1987, the petitioner along with others filed such application seeking appointment to the post of Conductor and he was interviewed on 13-11-1987. His name was sponsored by the employment exchange. It is admitted even in the counter that he has secured 81.6% of marks. It is now the contention of the learned Counsel for the petitioner that the persons who have secured less marks than petitioner were selected and the petitioner was unduly not selected on untenable ground that he was not having the subsisting employment exchange registration as on that date. The Counsel for the respondent counters that the petitioner only filed a photostat copy of the employment exchange card and did not produced the original. But, it is admitted that the selection committee did not call upon the petitioner to submit the original. There is a plausible explanation for the petitioner for not submitting the original employment card. As his name was sponsored by the employment exchange, he did not submit the original employment card. It was reasonable for him not to produce the original employment card as the very sponsoring by the employment exchange pre-supposes the subsistence of this registration. That is

also the statutory presumption u/s 114 of Indian Evidence Act. There is nothing placed before me by the respondents to rebut the said presumption. On the other hand, the original employment card issued by the employment exchange office, Kakinada is produced before me and it is manifest from the same that the registration number of employment card is 2341/82 and first registration was made on 22-10-1982 and from time to time regularly it was being renewed and it was last renewed in the month of October, 1992 also. In the circumstances, the fundamental right of the petitioner is infringed as there is gross violation of Article 14 in general and Article 16 in particular.

2. In view of what is states supra, I direct the respondents to issue appointment orders to the petitioner in the event of persons securing lesser marks than him were appointed in the selections held pursuant to the notification dated 15-10-1987 concerning the recruitment of Conductors. The writ petition is allowed to the extent indicted above. It is needless to mention that if the petitioner is found to be entitled because of my above direction, he shall be entitled for all the attendant benefits of seniority, increments and terminal benefit on the basis thereof. However, I do not order the payment of the back wages. This exercise shall be done by the respondents positively without fail within one month from the date of the receipt of this order. No costs.