
(2022) 09 TEL CK 0022
In the Telangana High Court
Case No : Writ Petition No. 2769 Of 2013

V. Raju S/O V. Gopal

APPELLANT

Vs

Oriental Bank Of Commerce

RESPONDENT

Date of Decision : 06-09-2022

Acts Referred:

Citation : (2022) 09 TEL CK 0022

Hon'ble Judges : P.Madhavi Devi, J

Bench : Single Bench

Advocate : J Sudheer, Kalpana Ekbote

Final Decision : Dismissed

Judgement

1. This writ petition has been filed by the petitioner seeking a writ of mandamus declaring the action of the respondent organization in conducting interview for the petty post of peon cum house keeper in the respondent organization and denying the claim of the petitioner on the ground of less merit and ignoring his marks in that qualifying examination i.e. 10th class while considering less meritorious candidates both in SC and OC category and carrying forward 5 OC vacancies without considering the claim of the petitioner under physically handicapped category as bad and illegal and contrary to the provisions of "The persons with disabilities (equal opportunities) protection of rights and full participation) Act 1 of 1996" and to consequently direct the respondents to appoint the petitioner as peon cum house keeper in one of the left over vacancies and/or adjust him in the SC vacancies with effect from the date of joining of others from the said selection with all consequential benefits.

2. Brief facts of the case are that the petitioner is a ST candidate (Lambadi). He completed 10th class in March 1997. It is submitted that due to his family's financial and social conditions, he could not pursue his further studies and registered himself in the employment exchange after 10th class and also mentioned about his physical handicappedness. It is submitted that on

07.07.2012, the petitioner received a letter from the employment exchange, requiring the petitioner to be present for the interview on 21.07.2012 at 9.30 AM for the post of peon cum house keeper and that he shall submit all the documents referred therein such as caste certificate, registration of employment exchange, date of birth certificate and physically handicapped certificate and experience certificate. The petitioner is said to have attended the interview on 21.07.2022 and submitted all the documents.

3. It is submitted that the respondent had also given a notification mentioning that the qualification required for the said post is 10th class and the total vacancies notified were 25 (SC 4, ST 5, OC 6, Gen10). It is submitted that the petitioner was eligible to be considered for the post both under ST category as well as OC category. After completion of the interview and since the petitioner had done well in the interview, he was expecting selection and appointment either under ST or OC or physically handicapped quota. However, he was not selected and 5 other ST candidates were selected and so far as general vacancies are concerned out of 10, only 5 vacancies were filled and remaining 5 were carried forward and appointments were given in December, 2012.

4. It is submitted that the petitioner sought for the information under the RTI Act vide his representation dated 15.12.2012 and the same was furnished to him on 12.01.2013, according to which the paper notification was issued on 24.05.2016 for 25 vacancies and employment exchange was also asked to provide list of eligible candidates. The list of ST candidates as furnished by employment exchange including the petitioner filed herein and it is submitted that all the candidates were called for interview. It was also mentioned that out of 25 vacancies, only 14 were filled and 5 general vacancies were carried forward and the vacancy with regard to 6 OBC candidates will be finalized later. It is also stated that the candidates were selected on merit and that the petitioner did not come within merit under ST category as well as general category.

5. Challenging the action of the respondents in not selecting the petitioner either under ST or OC categories or atleast under PHC Quota, the present writ petition is filed on the following grounds.

i) Conducting interview for the post of peon by the 4th respondent is irrational.

It is submitted that in the job of a peon, who entails the work of carrying the files and obeying the instructions of the officers, conducting of the interview was only to provide discretion to the authorities to select the candidates of their choice. It is the case of the petitioner that the candidates ought to have been selected on the basis of marks obtained by them in the qualifying examination and if only that procedure was followed, the petitioner who had obtained more marks than all other candidates would have been selected. Therefore, according to the petitioner, conducting of interview was only a formality in this case, as more than 60 to 70 candidates were interviewed in a day and no marks were displayed and this lead to denial of more meritorious candidates like the

petitioner in preference to those who are less meritorious.

ii) The other community candidates are also eligible to be considered for OC vacancies.

It is submitted that though the petitioner is an ST candidate he can also be accommodated in OC vacancy and therefore carrying forward of 5 OC vacancies on the ground that there are no eligible candidates is not sustainable. Therefore, he submits that he should be considered and accommodated in any one of the OC vacancies, particularly when the grade/merit that is required for the peon post is not displayed nor mentioned in the notification.

iii) The petitioner would come under physically handicapped category.

Under the Act 1 of 1996 i.e. The persons with Disability (equal opportunities cum protection of rights full participation) Act of 1995, there is 3% reservation for physically handicapped persons and 1% thereof can be given for orthopedically handicapped persons. It is submitted that the petitioner is orthopedically handicapped (50% physically handicapped, polio effected) and therefore, is fully entitled to be considered under the said reservation.

6. It is submitted that not a single physically handicapped person was appointed and when there is a physically handicapped person coupled with ST reservation, the petitioner should have been preferred, more so, when he is more meritorious than others.

7. Learned counsel for the petitioner, Mr.Sudheer, reiterated the averments made in the writ affidavit and also referred to various documents filed by the petitioner in support of the above contentions. He submitted that since there was no reservation applied to the persons with disabilities and no candidate was also selected, the petitioner should be considered and appointed against the vacancy which was carried forward under the OC category.

8. The respondents, though have filed counter affidavit, none was present at the time of hearing.

9. The respondents have filed the counter affidavit, confirming that they have called for the list of eligible and qualified candidates from the employment exchange for consideration of their suitability for the post of peon cum house keeper in Hyderabad region and it also placed an advertisement in English and Telugu newspapers inviting applications from eligible candidates in order to have a wider choice to recruit the most eligible candidates.

10. It is submitted that the respondent had received totally 337 applications from both the employment exchange as well as in response to the newspaper advertisement and after scrutinizing the relevant documents, the respondent had issued call letters to all the 337 candidates. It is submitted that 243 candidates reported the interview and out of the 25 vacancies identified in the recruitment, as per the roster system followed by the bank, the vacancies available under

different categories were as under Gen10, OBC 6, SC4, ST5 and there was no vacancies for PHC. It is submitted that the process of selection is uniform to all the banks and the guidelines issued by the Government have been scrupulously followed by the respondent bank. It is submitted that the interview committee consisted of 3 members headed by Assistant General Manager and 2 of them were chief manager of scale IV (who also happens to be representative of SC category besides being liaison officer for SC/ST employees of the Bank) and another scale II officer (being a lady representative besides being SC and ST representative) as per Government guidelines. It is submitted that the interview committee prepared a single list of all candidates interviewed by the order of marks obtained in the interview and the interview process was spread over 7 days and the details of the number of candidates interviewed each day has been stated in the counter.

11. It is submitted that as per the merit list prepared by the interview committee, the writ petitioner was listed at sl.No.232 in the overall merit and 55th position in the ST category and that he had obtained 13 marks in the interview. It is submitted that there were as many as 45 more ST candidates who were placed above the petitioner in the selection list and therefore he could not have been appointed in the ST category.

12. As regards the general vacancy reservation is concerned, it is stated that out of 10 candidates selected under the General category, only 5 were appointed and the remaining 5 were disqualified due to age criteria in the overall merit order and that in the course of time, the said vacancies have also been filled up. It is further submitted that the writ petitioner could not be considered under general category because he was over 28 years of age which is the age limit of general category candidates and there were many over meritorious candidates under both SC and ST categories superiorly placed to the writ petitioner.

13. Having regard to the rival contentions and the material on record, it is noticed that the petitioner is seeking appointment under the general category since 5 candidates superiorly placed to petitioner have already been appointed under the ST category. According to the respondents, the posts which are vacant. None of the post is reserved for the PHC person as per the roster point. As per the notification also, there is no post which is reserved for the physically handicapped quota. The petitioner was placed on 232 in the overall merit list and even if he was to be considered under the general quota, he would not come anywhere within the zone of consideration because there were other more meritorious suitable candidates who would fall within the zone of consideration and who are placed above the petitioner. In view of the same, this Court does not see any merits in the writ petition.

14. The writ petition is accordingly dismissed.

Miscellaneous applications, if any pending, shall also stands closed.