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Court : Andhra Pradesh

Decided On : Nov-11-1998

Reported in : 1999(1)ALD125; 1999(1)ALT73

Judge : B.S.A. Swamy, J.

Acts : [Apprentices Act, 1961](#); [All India Council for Technical Education Act, 1987](#); [Constitution of India](#) - Article 14

Appeal No. : WP No. 14116 of 1997

Appellant : M. Brahmananda

Respondent : Works Manager, Zonal Workshop, Apsrtc, Vijaywada and Others

Advocate for Def. : Mr. C.V. Ramulu, SC for APSRTC

Advocate for Pet/Ap. : Mr. G. Vidya Sagar, Adv.

Judgement :

ORDER

1. The petitioner filed this writ petition seeking a writ of Mandamus questioning the action of the respondents in not promoting him as Grade-I Mechanic in the quota earmarked for ITT candidates during the year 1978 as illegal, arbitrary and

consequently sought for a direction to promote him as Gradc-I Mechanic in the year 1978 with all consequential benefits.

2. The factual background of this case is that the petitioner having studied up to 10th class, joined Industrial Training School at Kakinada in the year 1963 when employment oriented courses were introduced by the State Government at the secondary level of education. It is also now on record that these courses were wound up after 3 or 4 years. The Industrial School Leaving Certificate Course is a two years course and the petitioner having passed the examination obtained ISLC Certificate in the year 1963. Thereafter he also studied Draftsman course of one year in Auto Service and obtained a Certificate in Draftsmanship.

3. On the basis of the above two certificates he joined the service of the respondent-Corporation in the year 1964 as Casual Cleaner and his services were regularised in the year 1965. Subsequently he was promoted as Helper with effect from 1-4-1970. On 26-11-1973 he was promoted as Mechanic Gradc-II. As per the staff Regulations of the respondent-Corporation for promotion to Grade-I Mechanic, out of 4 vacancies one post has to be filled up with ITI candidate and the rest of them have to be filled up with non-Certificate holders. The case of the petitioner is that as the Industrial School Leaving Certificate (ISLC) is equivalent to that of ITI Certificate, he is entitled to promotion as Grade-I Mechanic in the year 1978 in the vacancy earmarked for ITI candidate but his case was not considered. Immediately he seemed to have made representation bringing this anomaly to the officials of the respondent-Corporation. Almost for one decade he went on making representations. Ultimately the representation of the petitioner was rejected by the respondent-Corporation in its proceedings No.E 1/232(33)/ 81 -RWS-(V), dated 3-10-1987 stating that the Chief Personnel Manager, Hyderabad has clarified that the 'Craftsmanship' Certificate issued to candidates who studied 'Auto Servicing' course from the Industrial School attached to Andhra Polytechnic, Kakinada cannot be considered as equivalent to NAC or NTC (ITI Certificate) which came into existence after passing of the [All India Council for Technical Education Act, 1987](#), which is intended to streamline and bring uniformity in imparting technical education in the State. From the facts of the case it is seen that these NAC or NTC Certificates that are being demanded by the authorities cannot be made applicable

to the persons who joined service on the basis of the Certificates issued much prior to the introduction of the Act. Questioning the said orders the present writ petition has been filed by the petitioner.

4. The case of the respondents is that as the Director of Technical Education in his letter No.E3/1673/85, dated 9-8-1985 as well as the Commissioner of Employment & Training in his letter No.13/413/93, dated 12-7-1993 informed the respondents that the Industrial School Leaving Certificate issued by the Department of Technical Education is not equivalent to Industrial Training Institute Certificate. On the basis of these two letters the request of the petitioner was rejected by the respondent-Corporation. At the same time his case was considered for promotion as Mechanic-Grade-I in the quota earmarked for non ITI candidate and he was promoted to that grade in the year 1998.

5. Now it is to be seen how far the action of the respondent-Corporation is justified in rejecting the request of the petitioner for promotion as Mechanic Grade-I under ITI quota in the year 1978.

6. It is not in dispute that the Recruitment & Training Officer, Andhra Pradesh State Road Transport Corporation, Musheerabad has sought for a clarification about the Industrial School Leaving Certificate (ISLC.) in his letter No.RI/353(176)/70-PD dated 11-9-1970 and the Director of Employment & Training in his letter No.D4/ 38711/70, dated 7-10-1970 informed the respondent-Corporation that Industrial School Leaving Certificate (ISLC) is an equivalent one to that of Industrial Training Institute Certificates awarded by the National Council for Training in Vocational Trades for the purpose of Government service in the State. However, the Industrial School Leaving Certificate (ISLC) holders are not eligible for Apprenticeship under the Apprentices Act of 1961. Both the learned Counsels admit that under the provisions of the Apprenticeship Act of 1961, after obtaining the Certificate a person is given further training to improve his technical skills for a period of one year by paying stipend. But it is not an essential requirement for obtaining employment till the introduction of the [All India Council for Technical Education Act, 1987](#). It is also agreed that after the AICTE Act came into force it is required that after passing ITI, one must undergo Apprenticeship

Training for considering his case for employment in the State services. From the above letter of the Director of Technical Education, Hyderabad it is seen that ISLC is equivalent to ITI for the purpose of Government Service in the State Government or under its undertakings. Though this fetter was brought to the notice of the respondents, for the reasons best known to them they seemed to have addressed another letter No.PI/502(4)/78-PDJ dated 28-9-1985 seeking a clarification. But at the same time it is not known under what circumstances this clarification was sought from the Director of Technical Education, who is not concerned with this course, that is to say while polytechnics are under the administrative control, of the Director of Technical Education, ITIs are under the control of the Director of Labour and Employment and they are two different and distinct departments. Even assuming that the action of the respondent is a genuine one, the Director of Technical Education in his letter No.E3/16765/85, dated 9-8-1985 informed the respondents that Industrial School Leaving Certificate is not being considered as equivalent to NAC or NTC (TTI) Certificate which has come into existence after the introduction of the [All India Council for Technical Education Act, 1987](#). At the same time it is made clear that for some of the posts in the department like Junior Instructors and Skilled Workers, the certificate in craftsmanship is prescribed as an alternative qualification to NAC or NTC. So even from this letter it is seen that this certificate is considered as an alternative to NAC or NTC., which came into force after 1987. This clarification cannot be relied upon by the respondents as the same was given after the introduction of the Act on the basis of the curriculum that being is imparted in the institution. With regard to the other letter of the Commissioner of Employment & Training in Lr.No. 13/413/93, dated 12-7-1993, this cannot also be taken into consideration as the petitioner is claiming promotion way back in 1978 and this clarification is in the year 1993. Secondly, it is a very bald clarification stating that ISLC is not equivalent to Industrial Training Institute Certificate issued by this Department i.e., in the year 1993, by which time they are bound to give certificates only to those candidates who studied NTC or NAC course but not under the old ITI Scheme. Hence this also cannot be taken aid by the respondents to deny the promotion to the petitioner.

7. Lastly the learned Counsel for the respondents contended that way back in 1979 the request of the petitioner was rejected and he did not raise any objection. When I asked the learned Counsel to produce the order of rejection he is in a helpless position. The file is not there or there was no reference about this rejection in the note file from which the impugned order has emanated. It is only across the Bar the learned Counsel raise this contention. On the other hand the learned Counsel for the petitioner asserted that his client never received any such rejection order from 1979 till this date. Even if such an order is passed and kept in the almyrah, it is always open for them to keep it in the almyrah without communicating to the petitioner and the same cannot be taken aid to deny the claim of the petitioner.

8. For all these reasons I have no hesitation to declare the action of the respondents in not promoting the petitioner as Mechanic Grade-I in 1978 in the quota earmarked for ITI candidates per se offends under Article 14 of the [Constitution of India](#).

9. Accordingly a direction is given to the respondents to re-fix his seniority with reference to vacancy that has to be filled in by ITT Candidate over and above his junior in the ITI quota in the year 1978 or in any subsequent years with all consequential benefits including payment of arrears of salary. The respondents shall implement the order within 4 weeks from the date of receipt of a copy of this order.

10. The writ petition is allowed. In the circumstances the petitioner is entitled for costs. The Advocate's fee is fixed Rs.2,000/-.