

A. Janikiraman Vs. the State of Andhra Pradesh and anr.

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Court : Andhra Pradesh

Decided On : Aug-19-1958

Reported in : AIR1959AP185

Judge : Satyanarayana Raju and ;Basi Reddy, JJ.

Acts : [Constitution of India](#) - Article 16 and 16(2)

Appeal No. : Writ Petn. No. 114 of 1955

Appellant : A. Janikiraman

Respondent : The State of Andhra Pradesh and anr.

Advocate for Def. : Government Pleader

Advocate for Pet/Ap. : D.V. Sastry, Adv. for ;K.B. Krishna Murthy, Adv.

Disposition : Petition allowed

Judgement :

Basi Reddy, J.

1. This is an application under Article 226 of the Constitution complaining of the infringement of the petitioner's fundamental right to employment, guaranteed by Art. 16 of the Constitution.

2. The petitioner was born in Kalinjur village, Gudiatam Taluk, North Arcot District. He was educated at Vellore and later underwent the compounders course and became a qualified compounder in 1952. As there was a vacancy for a compounder's post in the Government Head Quarters Hospital, Chittoor, the petitioner applied for it on 4-5-1953 and. after interview, he was appointed temporarily to act as compounder with effect from 14-5-1953.

3. On 1-10-1953 the State of Andhra was formed and the petitioner was retained in the service of the Andhra State, and he continued to serve as compounder in the said Hospital. On 2-2-1955 the petitioner received a communication from the District Medical Officer and Superintendent, Government Headquarters Hospital, Chittoor, whereby his services abruptly terminated. The order (R.O.C. No. 3102-B/54), which is challenged in this writ petition, ran thus :

'Sri S. Balachandra Rao, son of Sri S. Kuppu Rao, retired Head Clerk, Greamspet Chittoor, is appointed temporarily to act as compounder. Government Headquarters Hospital, Chittoor, ousting Sri A. Janakiraman acting compounder, Government Headquarters Hospital, Chittoor, being a non-Andhra candidate.

He is directed to join duty forthwith.'

Pursuant to that order, the petitioner handed over charge on 4-2-1955.

4. It will be observed that the sole ground on which the petitioner was ousted was that he is a 'non-Andhra' in other words he was discriminated against only on the ground of his place of birth. Such hostile discrimination is forbidden by Article 16 of the Constitution which, subject to certain reservations which are not material for purposes of this case, provides for equality of opportunity for all citizens in matters of public employment The relevant clauses-run as follows:

'(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under though State.

(2) No citizen shall, on grounds only of religion race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.'

Thus on the face of it, the impugned order, by which the petitioner was ousted and replaced by another on the one and only ground that the petitioner is a 'non-Andhra', is repugnant to the express provisions of Clause (2) of Article 16, and is as such void.

5. The learned Government Pleader, however, contends that since the petitioner held only a temporary post and his services could be terminated at will, he cannot claim the benefit of Article 16. We are not impressed with this argument. Clause (2) of Article 10 recognises no such distinction; it applies with equal rigour to all posts under the State, permanent as well as temporary. It is not permissible to engraft limitations upon the fundamental rights enshrined in the Constitution.

6. We accordingly allow this writ petition with costs and quash the order in R.O.C. No. 3102-B/54 dated 2-2-1955 made by the D.M.O. and Superintendent, Government Headquarters Hospital, Chittoor. Advocate's fee Rs. 100/-.

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