

**P. Ramakrishna and ors. Vs. District and Sessions Judge and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/437305](http://sooperkanoon.com/437305)

**Court :** Andhra Pradesh

**Decided On :** Feb-04-1997

**Reported in :** 1997(2)ALT369

**Judge :** S. Parvatha Rao and ;B.K. Somasekhara, JJ.

**Acts :** Andhra Pradesh Ministerial Service Rules, 1964 - Rules 6 and 8

**Appeal No. :** Writ Petition No. 23821 of 1996

**Appellant :** P. Ramakrishna and ors.

**Respondent :** District and Sessions Judge and anr.

**Advocate for Def. :** P. Ravi Prasad, Adv.

**Advocate for Pet/Ap. :** P.S. Narayana, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**S. Parvatha Rao, J.**

1. The petitioners who are in the feeder posts and are eligible for consideration for appointment to the posts in Category-2 in Division-4 under Rule 6 of the A.P. Ministerial Service Rules, 1964, ('Rules' for short), seek a declaration that the

action of the respondents in calling them for written examination scheduled to be held on 16th and 17th of November, 1996 for the purpose of promotion to the said Category-2 posts, is illegal, arbitrary and unconstitutional and seek a writ of mandamus to that effect.

2. The question raised in this writ petition turns on whether the appointment to the said Category-2 posts are merely on the basis of seniority or whether ability also has to be taken into reckoning. Rule 8 of the Rules is a clear answer. It states that promotion to the said Category-2 posts in Division-2 shall be made 'on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal', and the posts themselves are described as selection posts. In view of this, the contention advanced on behalf of the petitioners that the posts in question are to be filled merely on the basis of seniority of the petitioners does not hold water.

3. In the counter affidavit of the first respondent filed on behalf of the respondents, it is stated that the examination impugned in this writ petition was to be held for the purpose of short-listing the candidates pursuant to the Circular dated 1-7-1996 issued by the High Court, providing for certain norms and guidelines for appointments to be made to these posts in accordance with the Rules. It was in fact held and subsequently the short-listed candidates were interviewed. Short-listing of candidates when their number is large and all of them cannot be interviewed, is an accepted procedure usually adopted in making selections. The Supreme Court has also approved of the same in *Madhya Pradesh Public Service Commission v. Navnit Kumar Potdar*, : (1995)ILLJ180SC .

4. The petitioners contend that as per the District Court's Official Memo/ Notice Dis. No. 6042 dated 30-8-1996 they were interviewed on 7-9-1996 by a committee headed by District and Sessions Judge at Chittoor (1st respondent) and that, therefore, he is under a duty to consider their cases for promotion to Category-II posts. But, subsequently, by proceedings in Dis.No.6266 dated 10-9-1996, the 1st respondent informed them that an objective written test for all eligible candidates i.e., Head Clerks of Munsif Courts and Translators working in Chittoor District, would be held on some other date for selecting suitable candidates to the posts in

the said Category-II. The petitioners contend that the action of the 1st respondent is arbitrary and illegal. Merely because the petitioners were interviewed they do not get a right for promotion. Qualified and eligible candidates are entitled only to be considered for promotion. The criteria adopted for evaluation of merit and ability of the candidates cannot be questioned, absent unreasonableness and arbitrariness. In the counter affidavit reasons for holding of the written test after the interview conducted on 7-9-1996 are explained as follows:

'As per the guidelines of the Andhra Pradesh High Court in Roc.No.2318/96 C-1(1) dated 1-7-1996, the petitioners are called for interview on 31-8-1996 and conducted interviews on 7-9-1996. The performance of any of the participants was not up to the mark in exhibiting the basic minimum working knowledge of the cadre of Category-II Sheristadar. Further, many of the participants stated during the interview itself that they are not able to give answers due to fear and being new to it and being inexperienced in facing interviews. In those circumstances, it is felt that it is necessary to know the reality of working knowledge of all branches of law and administrative rules and it has become necessary to hold objective test so that the participants can fearlessly give the answers to Judge their working knowledge. Further, it is felt they should also be interviewed for minimum marks of 20 and holding the examination for 80. It has become necessary to ascertain the basic working knowledge of the candidates before giving promotion as it is the experience of this Unit that many of the candidates after taking promotion without hesitation have been informing the concerned officers that they do not know that branch of law, this branch of law and such other administration work and pleading ignorance and expecting that they should be excused because of their lack of knowledge.'

We do not find anything unreasonable or arbitrary in the procedure and criteria adopted. In fact, the effort seems to be to objectively assess the merit and ability of the eligible and qualified candidates in a reasonable and fair manner to avoid arbitrariness by reducing the marks allotted for interview.

5. In the circumstances, we do not find any merit in this Writ Petition. In the result, it is dismissed. No costs.

