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Court : Andhra Pradesh

Decided On : Jul-20-2001

Reported in : 2001(5)ALT114

Judge : S.B. Sinha, C.J. and ;V.V.S. Rao, J.

Acts : [Constitution of India](#) - Article 309; Indian Administrative Service (Appointment by Promotion) Regulations - Regulation 5(1)

Appeal No. : W.P. No. 14484 of 2001

Appellant : B. Rayappa

Respondent : Union of India (Uoi), Department of Posts, Ministry of Communications and anr.

Advocate for Def. : L. Narasimha Reddy, S.C.

Advocate for Pet/Ap. : Krishna Devan, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

V.V.S. Rao, J.

1. The petitioner along with four others filed O.A.No. 139 of 2001 before the Central Administrative Tribunal, Hyderabad Bench (hereafter called 'the Tribunal'). In the said O.A. he prayed to set aside the fixation of cut-off date as 1-1-2000 for the eligibility criteria for fulfilling the service conditions of five years for the competitive examination for promotion to the post of PSS Group-B. The learned Tribunal by the impugned judgment dt. 25-4-2001 dismissed the O.A. placing reliance in *Dr. Amritlal Bhat v. State of Rajasthan*, : AIR 1997 SC2964 . Aggrieved by the same petitioner is before this Court by filing this Writ Petition.

2. The petitioner was appointed as Inspector of Post Offices (Group-C) on 25-9-1995 and he completed five years of service on 24-9-2000 as Inspector. He is one of the aspiring candidates for the post in Postal Superintendents Service (PSS) Group-B. The said posts are filled up by competitive examination. Respondent No. 2 issued a notification on 12-12-2000 proposing to conduct examination initially on 13/14-3-2001 and later the said date was postponed. Now it is submitted by the learned Counsel that the examination is likely to be conducted on 24-7-2001; though in the affidavit accompanying the writ petition it is stated that the examination was postponed from 13/14-3-2001 to 25/26-4-2001. Be that as it may, the petitioner submitted an application to the divisional head and the same was rejected on the ground that he did not complete five years of service as on 1-1-2000 and the petitioner could not sit for examination on 25/26-4-2001. He challenged the fixing of cut-off date as 1-1-2000 before the Tribunal on the ground that the vacancies which arose during 1998, 1999 and 2000 are sought to be filled up in April by present competitive examination and therefore, when the examination is to be conducted for the vacancies year-wise fixing one cutoff date would work adverse to the interest of the officials who became eligible in different years and that fixing such cut-off date as 1-1-2000 when the examination is likely to held in April/July 2001 is irrational and arbitrary. It was also prayed before the Tribunal to modify cut-off date for service eligibility condition as 1-1-2001 instead of 1.1.2000. As already noticed the Tribunal came to the conclusion that as the exercise is for filling up the posts/vacancies which arose in 1998, 1999 and 2000 fixing cut-off date as 1-1-2000 is reasonable and valid.

3. Sri Krishna Devan, learned Counsel for the petitioner reiterated the same grounds urged before the learned Tribunal. He placed reliance on the judgment of the Supreme Court in Union of India v. Vipinchandra Hiralal Shan, 1997 SCC (L & S) 41 and submits that when the selection process for filling up promotion posts has to be taken up year-wise when the posts are being filled up in April 2001 the respondents ought to have taken 1-1-2001 as cut-off date.

4. We are afraid we cannot agree. As seen from the judgment in Vipinchandra Hiralal Shah's case the Supreme Court was dealing with Regulation 5(1) of I.A.S. (Appointment by Promotion) Regulations which provides that Selection Committee shall have to meet at intervals not exceeding one year and prepare list of members of State Civil Service, who are suitable for promotion to IAS. This was held to be mandatory in nature because the eligibility of persons to be considered both in the matter of length of service and age under the said Regulation is with reference to the first day of January of the year in which the Selection Committee meets. In the case on hand, however, no such rule is placed before us. Therefore, we have to reject the contention.

5. In Dr. Amritlal Bhat's case (1 supra) it was held that fixing cut-off date is executive function and unless the fixation of cut-off date is grossly arbitrary and has no nexus the Court should not ordinarily interfere. In the said case it was held:

Basically, the fixing of a cut-off date for determining the maximum or minimum age required for a post is in the discretion of the rule-making authority the employer as the case may be. One must accept that such a cut-off date cannot be fixed with any mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut-off date is fixed there will be some persons who fall on the right side of the cut-off date and some persons who will fall on the wrong side of the cutoff date. That cannot make the cut-off date, per se, arbitrary unless the cut off date is so wide off the mark as to make is wholly unreasonable.

6. There is yet another reason for us to reject the contention of the learned Counsel for the petitioner that fixing 1-1-2000 as cut off date is arbitrary. As can be seen from the Notification dt. 12-12-2000 which was impugned before the Tribunal the exercise for filling up the posts of Postal Superintendents (Group-B)

commenced in November, 2000 and therefore the Director of Postal Services thought it fit to restrict the eligibility to those who have completed five years of service as on 1-1-2000 as required under statutory rules framed in exercise of power under proviso to Article 309 of the [Constitution of India](#) vide Government notification dated 29-6-1994. Further, if only the authorities had completed the process in respect of vacancies which arose during 1998 and 1999 the petitioner would not have been eligible. There was some administrative delay in filling up the posts. Therefore, the recruitment by competitive examination has to be taken up in 2001. The mere fact that during the interregnum the petitioner has become eligible by completing five years service as Inspector of Post Offices cannot be a ground for treating cut-off date as arbitrary. There is every justification in fixing 1-1-2000 as cut-off date even though the examination is to be held in 2001.

7. In the result, we see no merit in the Writ Petition and the same fails and is accordingly dismissed. But, in the circumstances of the case, there shall be no order as to costs.