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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No.1062/97.

Date of decision: 30-12-1998.

Between:

Smt. V.S.M. Latha. .. Applicant.

And

1. The Post Master General,
Visakhapatnam Region,
Visakhapatnam 530003.
2. The Director of Postal Services,
Visakhapatnam Region,
Visakhapatnam.
3. The Chief Medical Officer.in-charge,
Department of Posts, P & T Dispensary,
Rajahmundry.
4. Sri G.Suresh, Respondents

Counsel for the Applicant: Sri V.Venkateswara Rao.

Counsel for the Respondents: Sri V.Rajeswara Rao for
Official Respondents 1 to 3
Sri K.Sudhakar Reddy for R-4

CORAM:

Hon'ble Sri R.Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

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O.A.No.1062/97.

-- -- ORDER -- --

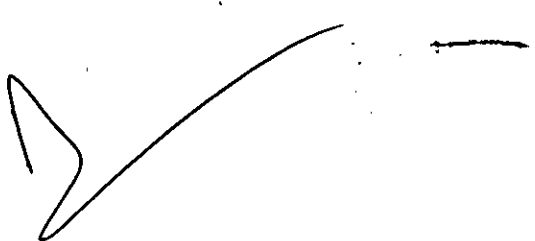
(by Hon'ble Sri R. Rangarajan, Member (A)

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Heard Sri Venkateswara Rao for the applicant
and Sri V.Rajeswara Rao for the official respondents
and Sri K.Sudhakar Reddy for the private Respondent No.4.

The facts of the case are as follows:

The applicant in this O.A., was called for the selection to the post of Lab Technician in the P&T Dispensary , Rajahmundry to be held on 22.5.1996 as seen from the Office OrderNo. ST/123/Genl/Rect dated 30.4.1996 (Annexure A-10 Page 16 to the O.A.). It is stated that the applicant appeared for the selection but she was informed by letter No. PTD/Disp/Rectt/96-97 dated 7.2.1997 (Annexure A9 Page 15 to the O.A.) that she has been selected to work as Lab Technician on casual basis subject to certain conditions prescribed in that letter. The terms and conditions prescribed in that letter read as follows:

- 1) The post is purely temporary and ad hoc can be terminated at any time.
 - 2) The post carries pay and allowances on prorata wages on the minimum basic of the Lab Technician in Central services
 - 3) The appointment is on casual basis (5 days a week)
 - 4) The incumbent will not have any right to claim permanency.
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5) "The administration has right to terminate without any further Notice."

had as per the above con-

It is stated that the applicant/joined that post/ However, ^{ditions}

it is further stated that without cancelling the selection to which the applicant was a candidate

~~of the applicant~~, the Employment Exchange was approached

for sponsoring a list of candidates for posting against

the same post of Lab Technician, P & T, ^{Dispensary,} Rajahmundry.

Respondent No.4 was appointed by the impugned Order

No.ST/123/Genl/Rectt dated 20-6-1997 (Annexure A-11

Page 17 to the O.A.) as he was sponsored by the Employment Exchange and selected.

This O.A., is filed praying for calling for the records pertaining to the selections held on 22.5.1996 and for a consequential direction to the Respondent No.1 to appoint the selected candidate i.e., the applicant herein with all consequential benefits by holding that the impugned Memo No. ST/123/Genl/ Rectt dated 20-6-1997 issued by the respondent No.1 as illegal, arbitrary and unconstitutional and to set aside the same.

A reply has been filed in this O.A., by the Official Respondents.

Para 2 of the reply is relevant. It is seen from this para 2 that the post of Lab Technician P & T Dispensary, Rajahmundry fell vacant on the demise of incumbent K.Sudarshan Rao on 21.5.1995. That vacancy

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was to be filled up by ^{an} O.C Category candidate. The Employment Exchanges of Kakinada, Rajahmundry and Amalapuram were notified by letter No. ST/123/Genl/95 dated 28.7.1995 (Annexure R-1 to the reply). The qualifications prescribed for the post are Matriculation or its equivalent, Diploma in Lab Technician course with at least 2 years experience in Laboratory work and the candidate shall be within the age limit of 18--25 years as on 1.7.1995. The Employment Exchange, Kakinada sponsored only one candidate. Again the Employment Exchange, Kakinada was requested to sponsor at least 5 candidates for the Lab Technician since the selection was required to be made through DPC vide letter No. ST/123/Genl/Rect. dated 17.8.1995 (Annexure R-2 to the reply) The said Employment Exchange Officer, Kakinada also asked the other Exchanges at Srikakulam, Vizianagaram, ~~and~~ Visakhapatnam, Eluru and Vijayawada to send the list of candidates to the Assistant Director, D/o Postmaster General, Visakhapatnam (Annexure R-3 to the reply). The District Employment Exchange, Vizianagaram had sponsored 7 candidates and Employment Exchange of Visakhapatnam sponsored 20 candidates. The District Employment Exchanges of Visakhapatnam, Kakinada and Vizianagaram were requested by letter No. ST/123/Genl/Rect dated 27.12.1995 to extend the validity of lists of the candidates sponsored by them for the said ^{as the selection could not be held in due time} ~~post/due~~ to Departmental reasons. However, subsequently the Employment Officer, Vizianagaram addressed a letter to the Assistant Director by letter No. A2/Submsn/95/156

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declaring that the lists already sent/become inoperative and asked the Department to return back the lists sponsored by them. Accordingly the Department by letter No.ST/123/Genr1/Rect dated 8.1.1996 returned the said lists to the Employment Offices at Vizianagaram, Visakhapatnam, Kakinada. Once again the Department addressed letter No.ST/123/Genr1/Rect., dated 25.3.1996 to the Employment Exchanges, Kakinada, Visakhapatnam requesting them to nominate candidates for the post of Lab Technician prescribing the age of the candidates for the said post between 18 and 25 years as on 1.1.1996 and the academic qualifications would be Matriculation or its equivalent, Diploma in Lab Technician course with at least 2 years experience in Laboratory Work (Annexure R-VI to the reply). The Employment Exchange at Vizianagaram has sponsored a list of 3 candidates viz., T.Rajasekhar, (F.C.) V.S.Manikyalatha (Applicant - S.C.) and G.Koteswara Rao, (F.C.) by letter No. 96/0102/00 dated 16.4.1996. Call letters were issued to all the three candidates fixing the date of interview on 22.5.1996. The DPC met on 22.5.1996 and interviewed the above/three candidates and found that none of the candidates were found fit for appointment and it was suggested to call again candidates from the Employment Exchange or ^{to issue} open advertisement. As far as the applicant herein is concerned the date of birth as per T.C, for Intermediate course issued by A.V.N.College, Visakhapatnam dated 23.8.1993 is 22.6.1997. So the applicant was treated as over-aged. The candidates should ^{be} below 25 years of age as on 1.1.1996 as per the Notification. It is further

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and hence stated that the ~~applicant's~~ post falls under FC category, /the applicant is not entitled for any relaxation of age limit though she belongs to S.C.

As the first Notification failed to get the necessary candidates for filling /~~the~~ of that post, the Employment Exchanges at Kakinada and Visakhapatnam were once again addressed by letter No.ST/123/Genrl/Rect. dated 3.6.1996 (Annexure R-7 to the reply) calling for sponsbrship for the above one post stating that the candidates should be and the Educational qualifications remaining the same between 18 and 25 years of age. The above Employment Exchanges reported that no suitable candidates were available. Hence the post was filled by making casual appointment because of the pressure from the staff to fill up that post pending regular selection. Hence the C.M.O., made contingent arrangement by engaging the applicant as Lab Technician for 5 days a week from 10.2.1997. /^{Later} the Employment Exchange sponsored the list of 7 candidates and the DPC met on 22.4.1997 and interviewed the candidates. Only 5 candidates out of 7 candidates attended the interview. Out of 5 candidates one G.Suresh/^(Respondent No.4) was recommended since he got highest marks among the candidates interviewed. The applicant was not sponsored by the Employment Exchange.

The private respondent No.4 has filed reply.

The facts of his case ~~which~~ as ~~xxx~~ narrated in the reply of ~~are~~ repeated by him the official respondents / //A rejoinder has been filed by the applicant.

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The main points that are brought out in the rejoinder are:

The applicant being an S.C. candidate ~~she~~ should have been given age relaxation irrespective of the fact whether the post to be filled is an un-reserved post or reserved post. Further the applicant was selected at the first selection for which she attended the interview on 22.5.1996 but for un-known reasons the respondents instead of giving her regular appointment, ~~she was~~ ^{had} ~~given~~ ^{her} appointment on casual basis. The applicant underwent interview on 22.5.1996 ^{and the first selection} was not cancelled. Hence the selection and appointment of Respondent No.4 without cancelling the earlier selection is unwarranted. In the rejoinder it is also stated that she was only 28-~~1~~ years of age as on 1.1.1996 and if age relaxation of 5 years is given to her she will be eligible for consideration for that post. The applicant relies on Chapter XIII of Swamy's ~~Compilation~~ ^{Publication} of Establishment Manual in regard to relaxation of age limit for appointments. As per these instructions the S.C., and S.T. candidates are given five years of age relaxation.

We have heard the applicant, ^{official} respondents and the private Respondent No.4.

The first point for consideration is whether the respondents are permitted to initiate the second selection without cancelling the first selection.

From the records produced, we find that there is no cancellation of the first selection for which the applicant attended/on 22.5.1996. ~~This appears to be~~


without cancelling the first notification/selection ~~without/r~~ in conducting the second selection for filling up the post of Lab. Technician ~~appears to be irregular.~~

~~Rxxxx sxxxxxxx~~ When the applicant received the Order dated 7-2-1997 appointing her as Lab Technician on casual basis, the applicant has not questioned the reason for posting her on casual basis as she had attended the interview on 22-5-1996 for regular appointment. Without any murmur she accepted the appointment on casual basis and joined the post. Even though

there is an irregularity in not cancelling the first selection/by the Respondent Authorities, the applicant has not questioned the same and submitted herself for casual appointment without any protest. Having

submitted herself to the casual appointment she cannot now question the ^{non-}publication of the results of the selection held on 22.5.1996. The ~~very fact~~ ^{submission of the respondents} that

she was posted on casual basis as she was not found eligible for that post, does not absolve the respondent authorities in initiating the second selection without cancelling the first selection.

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The learned counsel for the Official Respondents produced before us the minutes of the Selection Committee held on 22.5.1996. From the Minutes, it is seen that the applicant was given ~~a kaka mark~~ ~~marks~~ ~~marks~~ 69^{marks} /out of 100 by the Selection Committee /and she had scored the maximum marks. But in the same minutes in paras 1 and 3 it is stated as under:

(1) Sl.1 and 2 have submitted Diploma Certificate issued by Association of Medical Technologists, A.P., which is not conducted/awarded by Government/Board. The Committee expressed a view that the certificate issued by Institutions other than Government are not eligible and not for consideration as a qualification is to be clarified.

(2) *** **** ****

(3) Sl.No.2 as Circle Office has clearly pointed out that she is not eligible as overaged (vide covering letter). Hence her candidature was not considered for selection.

(4)to(6) *** **

If the Selection Committee found the applicant ineligible due to her educational qualifications^{and} / age, we do not see ^{as to} Selection Committee any reason/why the ~~respondents~~ allowed her for interview and granted her marks. The respondents ought to have rejected her application at the threshold itself.

The Respondent Authorities have seen the qualifications and only of the applicant/after scrutiny of her application ~~only~~

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she was permitted to appear for interview . Hence the submissions/findings of the Selection Committee that the applicant is ineligible due to her qualifications cannot be taken at the face value. Having interviewed her and granted her the marks in the said interview, it has to be held that the qualifications of the applicant are sufficient to meet the requirements for discharging the duties of the post of Lab Technician.

The next reason given by the respondents for rejecting her case is due to the fact that she was over-aged as on 1.1.1996. But, when we questioned the learned counsel for the respondents to produce the rules, if any, for/giving age relaxation to a reserved/candidate ~~xxxx~~ ^{not} ~~xxxx~~ ^{community} ~~xxxx~~ ^{even if} the post is to be filled by an 'Unreserved' community candidate ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ the learned counsel for the respondents produced Office Memorandum No36012/13/88-Estt(SCT) dated 22.5.1989 to state that the S.C/S.T. candidates who were competing for the selection against an un-reserved post cannot claim any age relaxation. We have perused the letter dated 22.5.1989. This letter in our opinion is irrelevant to the submissions made by the learned counsel for the respondents. Hence this submission viz., the applicant is not entitled for age relaxation ^{as} and she is over-aged is rejected.

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As stated earlier, the learned counsel for the applicant relied on Swamy's Publication in regard to Age relaxation of 5 years to be given to the reserved candidates irrespective of the fact whether that post is to be filled either by O.C. or SC/ST candidate. The rule is clear and hence we are therefore of the opinion that the SC/ST candidates are eligible for age relaxation whether it is to be filled by the reserved or unreserved community candidates. The age relaxation is given for reasons that the reserved community candidates may have joined the Educational Institutions late or for some other reasons akin to that. Hence, even if the Recruitment Rule does not indicate the age relaxation in regard to SC/ST, irrespective of the fact whether the post is to be filled by reserved or un-reserved, the respondents are bound to give age relaxation to a reserved candidate. Hence, the submission of the respondents that the applicant is over-aged cannot be accepted and it is rejected. She has to be given age relaxation of five years as on 1.1.1996.

The learned counsel for the private Respondent No.4 submitted that the Respondent No.4 attended the interview for the second selection and he has been selected in accordance with the rules. Hence his appointment cannot be questioned.

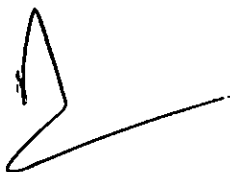
The above submission in the normal course may be acceptable. But when the respondents failed to cancel the

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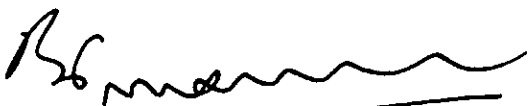
first selection and also failed to give age relaxation to the applicant holding of second selection in our opinion is not warranted. Hence, equity demands that, both the applicant and Respondent No.4 have to be given relief in equal proportion.


In that view, we are of the opinion that the applicant and Respondent No.4 along with others who were sponsored for the second selection by the Employment Exchanges should be interviewed afresh. While considering the case of the applicant age relaxation to the extent of five years as on 1.1.1996 should be given and her case should not be rejected on the ground that she is over-aged and also deeming her Educational qualification as appropriate as the respondents have not rejected her candidature earlier for want of requisite Educational qualifications and she scored maximum marks in the first selection. The respondent authorities failed to reject her candidature at the threshold itself. The selection as indicated above shall be conducted within a period of three months from today and the most suitable candidate shall be selected and posted. Till the regular candidate is posted, Respondent No.4 should be continued on casual basis as Lab Technician, P & T Dispensary at Rajahmundry.



The learned counsel for the applicant submitted that the impugned Order No. ST/123/Genl/Rectt dated 20.6.1997 appointing the Respondent No.4 is to be set aside. We have already stated that the posting of Respondent No.4 should be treated as a casual appointment and not on regular basis till a regular appointment is made as indicated in the aforementioned paras. Hence, in our opinion setting aside the impugned order does not arise. A correction to the impugned order dated 20.6.1997 should be issued by the respondents to the effect that the appointment of the 4th respondent is only on casual basis stipulating the appropriate terms and conditions.

The O.A., is ordered accordingly. No costs.



 (B.S. JAI PARAMESHWAR)
 Member (J)


 (R. RANGARAJAN)
 Member (A)

30.12.98

Date: 30th December, 1998.

 Dictated in open Court.


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II COURT

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

1) D.R (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

2) Spec

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESWAR :
M(J)

DATED: 30/12/98

ORDER/JUDGMENT

MA/R.A./G.P.No.

in

OA. NO.

1062/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

8 copies

केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 भेजण / DESPATCH
 18 JAN 1999
 हैदराबाद ब्याचपीठ
 HYDERABAD BENCH