

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

W.P(Tr).No. 6110 of 2017

ORDER:

In this writ petition, the petitioner is seeking a writ of mandamus declaring the action of the respondent No.1 in revising selections through result notification dated 06.07.2016 to the post of Assistant Engineer in Roads and Building Department pursuant to the notification No.09/2015, issued by the respondent No.1 on 29.08.2015, as illegal, arbitrary and violative of Articles of 14, 16 and 21 of the Constitution of India and also contrary to the Roads and Buildings Engineering Subordinate Service Rules issued in G.O.Ms.No.58, Transport Roads and Buildings (Ser.III), dated 01.05.2002 and to set aside the same and consequently to declare that the selection of the applicant to the post of Assistant engineer in Roads and Buildings Department as per result declared by the respondent No.1 on 09.05.2016 is valid and eligible for all consequential benefits and to pass such other order or orders in the interest of justice.

2. Brief facts leading to the filing of the present writ petition are that the petitioner possessed necessary qualification

i.e., qualification of Diploma in Civil Engineering and also Certificate course in Proge CAD 2D & 3D drafting and was fully eligible and qualified to the post of Assistant Engineer in Roads and Buildings Department. The petitioner belongs to the ST Community and is native of Karimnagar District i.e., Zone-V. It is submitted that the respondent No.1 issued a recruitment notification No.09/2015, dated 29.08.2015 for filling up the vacancies of Assistant Engineer in Roads and Buildings Department and various other posts. It is submitted that the said post is governed by the Service Rules in G.O.Ms.No.58, Transport Roads and Buildings (SER.III), dated 01.05.2002 and according to the said Rules, qualification prescribed for the post of Assistant Engineer in Direct Recruitment is as follows:

(i) Must possess a diploma in Civil Engineering awarded by the Andhra Pradesh State Board of Technical Education or its equivalent qualification;

(ii) Must possess the Department of Electronics Accreditation of Computer Courses (DOEACC) '0' level computer qualification administered by the DOEACC society under the Ministry of Information Technology, Government of India or a Diploma or Certificate in Computer Applications awarded by the Andhra Pradesh State Board of Technical Education or its equivalent qualifications as recognized by the Andhra Pradesh State Board of Technical Education.

3. It is submitted that the petitioner had participated in the written examination and has been provisionally selected and the petitioner was also called for certificate verification on 18.05.2016 and the petitioner attended the same and was waiting for the posting.

4. While the matter stood thus, the respondent No.1 issued impugned revised selection list through result notification dated 06.07.2016 to the post of Assistant Engineer wherein the Hall Ticket number of the petitioner did not find place. It is submitted that once the selection process is completed and results were declared, the respondent No.1 has no power and jurisdiction to revise the selection list and that too without giving any notice to the petitioner and others who were provisionally selected before cancelation. Therefore, challenging the same, the present writ petition has been filed.

5. It is submitted that vide impugned proceedings, the respondent No.1 has stated that on the basis of certain representations received from certain candidates who appeared for verification of certificates and who also possessed qualification equivalent to DOAECC with higher merit, the selection list was revised in exercise of power under Rule 20(b)

of TSPSC Rules of Procedure and the selection list was revised to protect the merit. It is submitted that this action of the respondents is in clear violation of Article 309 of the Constitution of India and further that in the special rules, there is no provision that a person who possesses qualification equivalent to DOAECC is eligible for appointment. Therefore, the learned counsel for the petitioner prayed for setting aside of the revised selection notification dated 06.07.2016 issued in respect of the post of Assistant Engineer pursuant to the notification No.09/2015, dated 29.08.2015 and to direct the respondents to appoint the petitioner to the post of Assistant Engineer in Roads and Buildings Department.

6. Learned Standing Counsel appearing for the respondent No.1 has filed counter affidavit admitting that the petitioner's name was mentioned as provisionally selected to the post of Assistant Engineer in Roads and Buildings Department, but has referred to Rule 20(b) of TSPSC Rules of procedure to draw power to revise the selection list.

7. Learned counsel for the petitioner has obtained information under the Right to Information Act and filed the

relevant documents in support of his contentions as part of the record.

8. Learned Standing Counsel for TSPSC, has also forwarded the written instructions from TSPSC, according to which, the provisionally selected list was revised only on the basis of certain representations received from the candidates.

9. Having regard to the rival contentions and the material on record, this Court finds that the necessary qualifications for the post of Assistant Engineers are mentioned in G.O.Ms.No.58, dated 01.05.2002 (cited supra). The necessary qualifications have already been re-produced in the above paragraphs. On a literal reading of G.O.Ms.No.58, dated 01.05.2002, it is seen that there is no provision to treat the candidates having qualification equivalent to DOAECC as eligible candidates. The equivalent qualification was only with regard to the Diploma certificate in computer applications awarded by the APSBTET and not the DOAECC Society under the Ministry of Information Technology, Government of India. Therefore, the respondent No.1 was not within its power under Rule 20(b) of TSPSC rules to revise the selection list. What is permitted under Rule 20(b) of TSPSC Rules is only “right to

correct any clerical, typographical, arithmetical or other mistakes in the merit list, selected list etc.” The relaxation of the condition of educational qualification or technical condition is not a clerical or arithmetical mistake which can be corrected by TSPSC. The TSPSC is only a recruitment agency and it is for the employer, who has to specify the qualifications for a post and the qualifications mentioned in G.O.Ms.No.58, cannot be relaxed by TSPSC under Rule 20(b) of TSPSC Rules. Therefore, the revised selection list issued by the TSPSC vide notification dated 06.07.2016 is set aside and the petitioner is directed to be appointed pursuant to his provisional selection list dated 09.05.2016.

10. Accordingly, this writ petition is allowed. There shall be no order as to costs.

11. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

JUSTICE T.MADHAVI DEVI

Date: 03.06.2024

bak