

Managing Director, A.P.S.R.T.C. and Another

Vs

S. P. Satyanarayana

Civil Appeal No. 3672 of 1998

(S. P. Kurdukar, G. T. Nanavati JJ)

07.08.1998

JUDGMENT

NANAVATI, J. –

1. Leave granted.

2. Heard learned counsel for the parties.

3. The respondent was earlier working as a Cleaner with a private bus operator. The said route was nationalised and, therefore, he became a displaced employee. Pursuant to the policy adopted by the appellant to absorb such displaced employees, subject to their eligibility, the respondent was also allowed to appear for a technical test to ascertain his eligibility. The respondent failed in that test and therefore he was not absorbed. He then made a representation to the appellant-Corporation to hold a retest for him and to absorb him as a Cleaner. As his representation was not accepted, he filed Writ Petition No. 16818 of 1992 in the High Court of Judicature of Andhra Pradesh.

4. His writ petition was allowed by, the High Court on the ground that he has no other alternative employment and has to maintain his old parents, wife and children and, therefore, he deserved to be absorbed and appointed by the Corporation. The Corporation was directed to consider the case of the respondent and to pass an order within two months, appointing him on a suitable post.

5. The Corporation is challenging the order passed by the High Court on the ground that in the absence of any justification, no such direction could have been given by the High Court to the Corporation. It was not the case of the respondent that the action of the Corporation was arbitrary or otherwise violative of Article 14 of the Constitution. In our opinion, the contention raised on behalf of the Corporation deserves to be accepted. The respondent had not challenged the validity of the test or the result. In his representation made to the Corporation, he had merely asked for a retest. He wanted one more chance for being considered for absorption in the appellant's service. The appellant was under no obligation to hold a special test for him. In view of these facts and circumstances, the High Court should not have directed the Corporation to appoint the respondent on a suitable post even though he had failed in the test.

6. We, therefore, allow this appeal, set aside the judgment and order passed by the High Court. But in view of the special facts and circumstances of the case, we direct the Corporation to give an opportunity to the respondent to appear again in a test to ascertain his eligibility. The appellant shall do so within a period of three months from today. If the respondent gets through the test, then the appellant shall appoint him as and when a vacancy becomes available.

7. No order as to costs.