

(2002) 12 AP CK 0021

Andhra Pradesh High Court

Case No: Writ Petition No. 24105 of 2002

M.S.S.R. Sastry

APPELLANT

Vs

Director, Central Tobacco
Research Institute and Others

RESPONDENT

Date of Decision: Dec. 3, 2002

Acts Referred:

- Constitution of India, 1950 - Article 14, 226

Citation: (2003) 1 ALD 46 : (2003) 96 FLR 425

Hon'ble Judges: S.R. Nayak, J; B. Seshasayana Reddy, J

Bench: Division Bench

Advocate: S. Lakshma Reddy, for the Appellant;

Judgement

S.R. Nayak, J.

A simple and short question that arises for our consideration and decision is whether the petitioner who is promoted to the post of Junior Clerk against the vacancy arising out of 5% of posts which are required to be filled by the method of seniority-cum-merit, can claim seniority over and above respondents 2 to 4 who are juniors to the petitioner in the feeder cadre but who had made entry to the post of Junior Clerk against 5% of vacancies which are required to be filled by conducting departmental competitive examination ?

2. The Tribunal by the impugned order has held that the petitioner is not entitled to the relief sought by him. Having heard the learned Counsel for the parties, we cannot take any exception to the view taken by the learned Tribunal.

3. The argument of the learned Counsel for the petitioner is that at the time when respondents 2 to 4 were promoted to the post of Junior Clerk, the petitioner was out of employment because he was retrenched, but subsequently, he has been directed to be reinstated into service with continuity of service and therefore, it is just, fair and legal that the Department having promoted the petitioner to the post of Junior

Clerk ought to have done it with retrospective effect and placed the petitioner above respondents 2 to 4 in the seniority list of Junior Clerks.

4. This contention of the learned Counsel for the petitioner has no legal basis. Should it be noticed that respondents 2 to 4 have come to be appointed to the post of Junior Clerk not through the same channel through which the petitioner has come to be appointed to that post. The stream through which respondents 2 to 4 came to be appointed to the post of Junior Clerk is altogether a different stream under the cadre and recruitment rules and therefore, the question of granting parity to the candidates coming from two different streams in the matter of seniority would not arise.

5. Be that as it may, it is a hard fact that the petitioner either before his retrenchment from service or after reinstatement into service has not appeared for the departmental competitive examinations and passed the same in order to qualify himself to be considered for appointment to the post of Junior Clerk against the vacancies arising out of 5% of posts which are required to be filled by conducting departmental competitive examinations. It is true that equals should be treated alike as guaranteed by Article 14 of the Constitution of India. However, in the present case, the petitioner and respondents 2 to 4 cannot be regarded as those belonging to the same class. What Article 14 prohibits is Class Legislation and not Reasonable Classification. Looking from that angle, no case is made out for our interference under Article 226 of the Constitution of India. The Writ Petition is devoid of any merit and it is accordingly dismissed with no order as to costs.