

PETITIONER:
ANDHRA PRADESH PUBLIC SERVICE COMMISSION

Vs.

RESPONDENT:
M. GOVERDHAN RAO & ANR.

DATE OF JUDGMENT: 10/12/1996

BENCH:
S.C. AGRAWAL, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

(WITH CIVIL APPEAL NO15552 OF 1996)
(Arising out of Special Leave
Petition (Civil) No.23193, of 1996)
[CC 4114/96]

J U D G M E N T

S.C. AGRAWAL, J.
Special leave granted.

Both these appeals are directed against the judgment of the Andhra Pradesh Administrative Tribunal (hereinafter referred to as "the Tribunal") dated April 4, 1996 in Original Application No. 1621 of 1994 filed by M. Goverdhan Rao, respondent No. 1 in both the appeals (hereinafter referred to as 'the applicant'). The matter relates to appointment on the post of Assistant Motor Vehicles Inspector in the Andhra Pradesh Transport Subordinate Service.

In 1992 the Andhra Pradesh Public Service Commission (hereinafter referred to as 'the Commission') notified vacancies of Assistant Motor Vehicles Inspector and invited applications for the said post. In response to the said notification the applicant submitted his application. The applicant belongs to a backward class in Group 'D' and his application was entertained as a local candidate of Zone V. Among the qualifications prescribed for the post of Assistant Motor Vehicles Inspector is Degree in Mechanical Engineering of Automobile Engineering of a University in India or an equivalent qualification. The applicant possesses a degree in Master of Sciences in Engineering awarded by the State Commission of USSR. For the purpose of selection a candidate has to take a written test and those who are short-listed after the written test are called for an oral test. The selection is made on the basis of the marks obtained in the oral test. The applicant appeared in the written test and on the basis of his performance in the written test by Memo dated January 27, 1994 he was asked to be present along with his certificates on February 13, 1994 at 10.30 A.M. He reported on February 13, 1994 and was given a card for oral test scheduled to be held on February 14, 1994. The name of the applicant was shown at serial No. 3 in the list of candidates called for oral test. When the name

of the applicant was called for the purpose of oral test on February 14, 1994 he was asked to wait and was told that the question of his eligibility was under consideration. After all the candidates had been interviewed the applicant was called for interview. In the final list of candidates selected by the Commission the name of the applicant was not included. He, therefore, moved the Tribunal by filing O.A.No.1621/94. In the said petition the Tribunal, on April 12, 1994, gave an interim direction that the applicant will be treated as eligible and included in the ranking list according to the marks obtained by him and if he comes within the list of selected candidates a revised list including his name at appropriate place should be sent to the Government and appointing authority who may, if necessary, adjust the last person in the list against any additional vacancy or remove him from the list. Even after the said direction the name of the applicant was not included in the list of selected candidates.

The stand of the Commission before the Tribunal was that since there was doubt as to whether the degree possessed by the applicant was recognised as equivalent to a degree in Mechanical Engineering or Automobile Engineering of the universities in India, a clarification regarding equivalence was sought from the Osmania University and that the Registrar of Osmania University replied that the Degree of Master of Science awarded by Khorzov Polytechnic Institute USSR is not recognised by the Osmania University so far and that the matter is being referred to the Association of India Universities, New Delhi for indicating the equivalence of the said degree and that further reply was awaited from Osmania University. Before the Tribunal it was further stated on behalf of the Commission that the applicant had secured 63 marks whereas the last selected candidate belonging to the backward class Group 'D' from Zone V had secured 65 marks and that the applicant could not also come up for selection as Non-Local as the cut off mark for selection for Backward Class Group 'D' Non-Local was also 65 marks. The applicant thus did not fall within the zone of consideration for selection either as a local to zone V or non-local due to his low marks and, therefore, even if it is assumed that the applicant's qualification is equivalent to B.E. Degree, it would not alter the position of the applicant in so far as this recruitment was concerned as he is not within the zone of consideration for selection.

In the impugned judgment the Tribunal has referred to the communication dated June 27, 1967 issued by the Government of India, in consultation that the Union Public Service Commission, regarding the recognition of the Degree/Diplomas awarded by the Universities in USSR and as per that communication the Degree possessed by the applicant from USSR was one of the degrees recognised by the government of India. The Tribunal has observed that it is not a recent recognition and that the Commission must be having the required information as to the equivalence of the qualifications particularly in respect of Degrees/Diplomas obtained from foreign universities and that the Commission should be having this material with them as otherwise they would not have allowed the applicant to appear for the written test. The Tribunal has also observed that memos were issued in January 1994 to the candidates short-listed for oral interview, including the applicant, calling upon them to appear along with their certificates before the Commission on February 13, 1994 and at that stage the Commission was satisfied and directed him to appear for oral test on February 14, 1994 and an objection was raised

for the first time when he was to be interviewed in his turn that the Degree obtained by him from an university in USSR was not recognised and the matter was under correspondence. According to the Tribunal, this itself shows that the applicant was not given a fair treatment. The Tribunal found force in the contention raised on behalf of the applicant that if the Commission had interviewed the applicant in his turn and put questions along with other candidates he could have certainly secured very high marks in the oral test and he might have stood first among the candidates belonging to the same group to which he belongs and secured appointment and that this aspect should not have been brushed aside in the circumstances. The Tribunal has held that the applicant was not given a fair treatment and his merit was not assessed objectively and for that reason he was deprived of appointment. The appellants have been directed to appoint the applicant as Assistant Motor Vehicles Inspector in one of the existing vacancies and if there is no existing vacancy in the next vacancy that may arise in the unit of appointment. Feeling aggrieved by the said decision of the Tribunal the Commission as well as the Government of Andhra Pradesh have filed these appeals.

Shri Ram Kumar, the learned counsel appearing for the appellants in both the appeals, has submitted that the Tribunal was in error in holding that the applicant was not given a fair and objective treatment in assessing his merit and in giving the direction regarding appointment of the applicant on the post of Assistant Motor Vehicles Inspector. The learned counsel has urged that since there was a doubt about the equivalence of the degree possessed by the applicant with the B.E. Degree of an Indian University, a clarification was sought by the Commission from the Registrar of Osmania University and that the applicant, when he appeared for the oral test on February 14, 1994, was asked to wait till the clarification was received and that on the same day the applicant was interviewed at the end of the interview of other candidates. The submission is that merely because the oral interview of the applicant was postponed till the end does not mean that there has not been a fair and objective assessment of the merit of the applicant. It has been submitted that having regard to the fact that the applicant has secured 63 marks and that the last candidates belonging to the Backward Class 'D' Group who have been selected from Zone V local as well as non-local had secured 65 marks, the Tribunal was in error in giving direction regarding appointment of the applicant on the post of Assistant Motor Vehicles Inspector.

Shri Nageshwara Rao, the learned counsel appearing for the applicant, was unable to justify the direction given by the Tribunal regarding appointment of the applicant on the post of Assistant Motor Vehicles Inspector. Shri Rao has, however, submitted that the Tribunal has rightly taken the view that there has not been a fair and objective assessment of the merit of the applicant on account of his being informed that there was doubt about his eligibility and the matter was under consideration and on account of his being interviewed after all the candidates had been interviewed. The submission of the learned counsel is that telling a candidate that there is doubt about his eligibility must have had psychological impact and would have certainly affected his performance in the oral test and, therefore, this is a fit case in which a special oral test may be held in so far as the applicant is concerned.

We find it difficult to subscribe to the view that on account his being asked to wait for the reason that there

was some doubt about his eligibility and the equivalence of the degree possessed by him and his being interviewed at the end after all the candidates had been interviewed, the applicant has been denied a fair and objective assessment of his merit. A fair and objective assessment of merit is made on the basis of performance at the oral test and there is nothing on record to show that the performance of the applicant at the oral test was adversely affected on account of his being told that there was a doubt about his eligibility and the equivalence of his degree, We find no basis whatsoever for the observation of the Tribunal that had the Commission interviewed the applicant in his turn and put questions along with other candidates he could have certainly secured very high marks in the oral test and he might have stood first among the candidates belonging to the same group to which he belongs and secured appointment. It is mere speculation for which there is no basis. We are, therefore, unable to uphold the view of the Tribunal that the applicant was not given a fair treatment and his merit was not assessed objectively. In the circumstances, the impugned judgment of the Tribunal cannot be upheld and has to be set aside.

The appeals are, therefore, allowed and the judgment of the Tribunal dated April 4, 1996 passed in O.A.No.1621/94 is set aside and the said O.A. filed by the applicant is dismissed. But in the circumstances, there will be no order as to costs.