

HONOURABLE SRI JUSTICE P. NAVEEN RAO

Writ Petition No.6082 of 2011

ORDER :

The petitioner is challenging the condition No.8 of the Memo, dated 07-09-2002 and the Condition No.8 of G.O.Ms.No.16, dated 22-03-2001. This Court by order dated 14-03-2011 directed the respondents to entertain the application of the petitioner and process the same without rejecting the same only on the ground that the petitioner is over-aged. The matter was further considered and an elaborate order was passed on 11-04-2011. The reliance was placed on the relevant clauses of Voluntary Retirement Scheme to contend that the petitioner is not eligible for consideration for fresh appointment, once he has opted for voluntary retirement. Having regard to the stand of the respondents, the respondent-corporation was granted liberty to fill vacancies as already notified, but selected candidates were directed to be informed that their selection would abide result of the writ petition.

In the counter-affidavit it is specifically averred that the very same clauses 4 and 8(8) of G.O.Ms.No.16, dated 22-03-2001 was challenged before this Court in W.P.No.2477 of 2002 and batch and this Court dismissed the said Writ Petitions declining to issue a writ of *Mandamus* to the Government to re-employ the petitioners therein in other Government Departments. Writ Appeal Nos.145 and 152 of 2002 filed against the judgment of the learned single Judge were also

dismissed by judgment dated 10-03-2003. Thus, the very same clauses, which the petitioner assails, stood affirmed by the Division Bench of this Court. It is further averred in the counter-affidavit that three vacancies of Technical Assistant notified are reserved, S.T.-1, O.C.(W)-1 and B.C.(B)-1 and there was no vacancy for O.C. (male). Thus, though the eligibility of the petitioner was considered in pursuance of the interim orders, for the above reasons, he was found not suitable.

Further more, it is also seen that petitioner invoked the jurisdiction of this Court in the year 2011 challenging the very same clauses when new recruitment was taken up. It appears the recruitment is finalized. The petitioner incurred disqualification on account of clause imposed in the Voluntary Retirement Scheme. It is not in dispute that the petitioner availed the benefits of Voluntary Retirement Scheme and retired from service. Therefore, he is bound by the clauses in the scheme. The petitioner was also disqualified on account of over-age and on this ground the petitioner is not entitled to contest the recruitment initiated in the year 2011. Thus, no relief as sought for by the writ petitioner can be granted.

The Writ Petition is accordingly dismissed. No order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand dismissed. There shall be no order as to costs.

P. NAVEEN RAO, J.

July 29, 2016.

skmr