

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27970 OF 2011

ORDER:

1. Originally, this writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in awarding 5 marks only for the total service of 16 months rendered by the petitioners as contract labour, and thereby denying selection of the petitioners to the post of Trainee Sub-Engineers notified vide Notification No.4/CGM(Adm)/2010, dated 5.1.2011, in spite of the petitioners being qualified on merit, as illegal and arbitrary.

2. Subsequently, the petitioners sought amendment of the prayer to the following effect:

“to issue a writ of Mandamus declaring the impugned action of the respondents in rejecting the case of the petitioners for awarding service weightage marks to the petitioners for their service rendered for more than 6 months, in respect of selection to the post of Trainee Sub-Engineers notified by notification No.4/CGM(Adm)/2010, dated 5.1.2011, and further action of the respondents in issuing impugned proceedings dated 23.8.2012, as illegal and arbitrary, and consequently to set aside the same, and further to direct the respondents to award service weightage 10 marks to the petitioners in respect of selection to the post of Trainee Sub-Engineers in the interest of justice.”

3. Heard Sri G.V. Shivaji, learned Counsel for the petitioners and Smt. A. Deepthi, learned Standing Counsel for the official

respondents and Sri A.K. Jayaprakash Rao, learned Counsel for the impleaded respondents.

4. It is the case of the petitioners that they are fully qualified and eligible to be appointed as Sub-Engineers and they have been uninterruptedly working with the official respondents on contract basis. While matter stood thus, the official respondents issued notification dated 5.1.2011 inviting applications for the post of sub-Engineers. As the petitioners are fully qualified, they responded to the said notification. As per the selection procedure, 30 marks will be allocated against marks obtained in the qualifying examination; weightage upto 10 marks will be given for passing qualifying examination upto the date of notification @ 2 marks for each completed year of passing, and service weightage will also be awarded to the candidates who have worked on contract basis. If a person rendered more than six months service, he is entitled for 10 marks.

5. The grievance of the petitioners is that as per the marks declared by the respondents, the 1st petitioner got 68.20 even though the cut off marks is 64.48 against OC category; the 2nd petitioner got 63.23 marks even though cut off marks is 61.30 marks against SC category; 3rd petitioner got 70.02 marks even though cut off marks is 67.18 in OC category in Electrical Branch, and 4th petitioner got 71.51 marks. Initially their candidature was considered, and subsequently, in the guise of

verification, the marks of the 1st petitioner were reduced from 68.20 to 63.20; the marks of the 2nd petitioner were reduced from 63.23 to 57.94; the marks of the 3rd petitioner were reduced from 70.02 to 60.02 and the marks of the 4th petitioner were reduced from 71.51 to 61.51.. According to the petitioners, they are entitled for additional weightage marks for the services rendered on contract basis and the respondents have not properly calculated service weightage marks. Since marks were erroneously deducted from the service weightage to be awarded to the petitioners, they have filed the present writ petition.

6. Further, it is the case of the petitioners that on 13.10.2011, this Court passed interim order directing the respondents to keep four posts vacant. Thereafter, the petitioners submitted a representation dated 12.1.2002 to reconsider their case. The respondents considered the representations submitted by the petitioners and passed impugned rejection orders on 23.8.2012.

7. The learned Counsel for the petitioners contended that no opportunity was given to the petitioners before passing the impugned orders dated 23.8.2012, and without application of mind, the respondents rejected the case of the petitioners on the ground that signatures of security personnel on the gate passes produced by the petitioners were not tallied. Further, he

contended that the gate passes of the petitioners were issued by the officers of the official respondents and without examining those officers, the respondents have rejected the case of the petitioners on the ground that the signatures of the security personnel on the gate passes were not tallied and that the action of the respondents in not examining the case of the petitioners and not awarding weightage marks is arbitrary and illegal.

8. The learned Standing Counsel for the official respondents contended that every opportunity was given to the petitioners and after verifying the gate passes, the respondents rejected the case of the petitioners by way of speaking order, and every effort was made by the respondents to ascertain whether the gate passes produced by the petitioners are genuine or not, and after conducting a detailed enquiry only, the respondents rejected the case of the petitioners, and that no illegality has been committed by the respondents and that the gate passes were examined by the committee constituted vide GOO No.79/CGM (Adm)/2011, dated 31.5.2011.

9. The learned Counsel for the unofficial respondents contended that the unofficial respondents are the meritorious candidates and because of the pendency of this writ petition, their case is not being considered for appointment as Sub-Engineers.

10. This Court having considered the rival submissions made by the parties and the material available on record, is of the view that writ petition can be disposed of directing the official respondents to reconsider the case of the petitioners after giving opportunity to them. The impugned proceedings dated 23.8.2012 are set aside.

11. Accordingly, the Writ Petition is disposed of setting aside the impugned proceedings dated 23.8.2012. The official respondents are directed to reconsider the case of the petitioners after giving opportunity to them and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order. It is needless to observe that the official respondents shall also hear the unofficial respondents and pass appropriate orders, while reconsidering the case of the petitioners. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 25th October, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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25/10/2018

Nn.