

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23295 OF 2006

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings dated 22.9.2006 as arbitrary and illegal, and further, to declare that the petitioner is entitled for absorption as Line Inspector with effect from 1.11.1990 and consequential notional fixation of seniority in the cadre of Line Inspector with effect from 1.11.1990 with all consequential benefits.

2. Heard Sri Ch. Ravinder, learned Counsel for the petitioner and Sri R. Vinod, learned Standing Counsel for the respondents.

3. It is the case of the petitioner that he was initially appointed as Telephone Operator in the erstwhile Electricity Department on 4.7.1967, and later, he was promoted as Switch Board Operator w.e.f. 23.5.1971 and subsequently, he was appointed as SSA Grade II w.e.f. 25.4.1982 and as SSA Grade I w.e.f. 25.4.1987. While so, the petitioner was declared as surplus staff and the respondents have taken a decision in the year 1990 to absorb all the surplus staff by creating an equivalent post w.e.f. 1.11.1990 vide Board Proceedings

No.368, dated 10.12.1990. Later on, similarly situated persons were absorbed in Visakhapatnam circle w.e.f. 1.11.1990 vide BP No.98, dated 26.5.1992. The respondents instead of considering the case of the petitioner for absorption on par with similarly situated persons w.e.f. 1.11.1990, absorbed the petitioner with effect from 25.9.1996 vide B.P.No.138, dated 25.1.1996. The petitioner submitted representations to absorb him on par with similarly situated persons. The General Manager recommended the case of the petitioner for absorption with effect from 1.11.1990 vide letter dated 31.7.2002 to the Chief General Manager. When his case was not considered, the petitioner filed W.P.No.20343 of 2005 before this Court and this Court disposed of the said writ petition vide order dated 15.9.2005 directing the respondents to consider the representation of the petitioner in the light of the letter dated 31.7.2002 addressed by the General Manager. But the respondents without considering the recommendations made by the General Manager vide letter dated 31.7.2002 has considered the case of the petitioner and rejected the same erroneously vide order dated 22.9.2006. Challenging the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that during pendency of this writ petition, the petitioner retired from service, and because of illegal action of the respondents in not

absorbing the petitioner with effect from 1.11.1990, he lost three promotional chances and he is drawing less pension than the similarly situated persons and therefore, appropriate orders may be issued to the respondents to absorb the petitioner from 1.11.1990 on par with similarly situated persons.

5. The learned Standing Counsel for the respondents contended that the respondents considered the representation of the petitioner and rejected the same by way of speaking order dated 22.9.2006 and that there are no merits in this writ petition.

6. This Court having considered the rival submissions made by the parties is of the view that ends of justice would be met if this writ petition is disposed of directing the petitioner to submit a fresh representation within two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of directing the petitioner to submit a fresh representation to the respondents within two weeks from the date of receipt of a copy of this order. On such representation being received, the respondents shall consider the case of the petitioner by duly taking into account the recommendations made by the General Manager vide letter dated 31.7.2002 and pass appropriate orders, within a period of four weeks thereafter, in accordance with rules. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated:19th November, 2018.
Nn.



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19/11/2018

Nn.