

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 22381 of 2011

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to the proceedings dated 26.07.2011 issued by the 1st respondent and quash the same holding it as illegal and arbitrary. A consequential relief is also sought to hold that the petitioner is entitled to continue in service as Record Assistant with all consequential benefits including pay and allowances and other attendant benefits.

Heard Sri D. Balakishan Rao, learned counsel for the petitioner, learned Government Pleader for Revenue appearing on behalf of the 1st respondent, and Sri P. Subhash, learned standing counsel for Andhra Pradesh B.C. Cooperative Finance Corporation Limited, appearing on behalf of the respondents 2 and 3.

It has been contended by the petitioner that he was appointed as Record Assistant on daily wage basis in March, 2001 in the 2nd respondent corporation and, subsequently, his services were absorbed in the existing vacancy of Record Assistant in the scale of Rs.4260/- - Rs.9520/- with effect from 03.08.2000 vide proceedings of the 1st respondent, District Collector, dated 03.08.2008, and since then, he has been discharging his duties. While so, the 1st respondent issued proceedings dated 26.07.2011 cancelling the earlier proceedings

issued in his favour for absorption in the 2nd respondent corporation. Aggrieved thereby, he filed the present writ petition.

When the matter is taken up for hearing, it is brought to the notice of the Court that pursuant to the interim orders dated 09.08.2011 granted by this Court in WPMP No.27317 of 2011, the petitioner is continuing in service.

Learned counsel for the petitioner has contended that the 1st respondent, while issuing the proceedings impugned in the writ petition, did not give any opportunity to the petitioner and the impugned proceedings were issued unilaterally and, hence, the same are liable to be quashed.

On the other hand, learned standing counsel for the 2nd respondent corporation has contended that the petitioner was illegally appointed at the first instance and, therefore, the question of his absorption by the respondents would not arise, and that the 1st respondent has rightly passed the impugned orders and no illegality has been committed by the respondents and, hence, the writ petition is liable to be dismissed.

Having considered the submissions made by the learned counsel on either side and perused the record, this Court is of the considered view that the 1st respondent issued the impugned orders without giving any notice to the petitioner and violating the principles

of natural justice. Therefore, the impugned orders are liable to be set aside only on that ground.

In view of the above, the impugned orders dated 26.07.2011 issued by the 1st respondent are set aside. The respondents shall examine the case of the petitioner for his continuation and absorption, in accordance with law, and pass appropriate orders after giving opportunity to the petitioner. The respondent shall take into consideration the fact that the petitioner has been rendering service for more than two decades, while passing the orders. In view of setting aside the impugned orders, the petitioner is entitled for all consequential benefits.

The writ petition is, accordingly, disposed of. Consequently, miscellaneous applications, if any, pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

10th October, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 22381 of 2011
(disposed of)

10th October, 2018

cbs