

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.33452 of 2010

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondent Nos.1 to 4 in not considering the plea of the petitioner for absorption and regularization of his services as Watch and Ward as illegal, arbitrary and unjust and consequently to direct the respondent Nos.1 to 4 to absorb and regularize the services of the petitioner as Watch and Ward or in any other suitable post forthwith.

During the pendency of this writ petition, the petitioner had filed an application for amendment of the prayer as follows:

“ to permit the petitioner to amend the prayer in the writ petition No.33452 of 2010 by adding the words as well as proceedings “action of the Respondent No.2 in issuing orders vide Lr.No.SF/O/TPT/PO/Adm/JAO-2/U3/F/D.No.149/11 dated 21.2.2011”, after the words “declaring the” and pass such other order or orders as this Hon'ble Court may deem fit and proper in the said circumstances of the case.”

The amendment application was ordered on 16.2.2012.

Heard Sri G.Jagadeeswar, learned counsel for the petitioner and Sri N.Siva Reddy, learned standing counsel for the respondents.

It has been contended by the learned counsel for the petitioner that the petitioner was engaged as Watch and Ward on 1.1.1989 with the respondents and worked there up to 30.4.1995 and thereafter his services were disengaged. The petitioner had

submitted number of representations to reinstate and absorb him on regular basis. It has been further contended by the learned counsel for the petitioner that similarly situated persons like the petitioner had filed W.P.No.29592 of 1998 and this Court had dismissed the writ petition vide orders dated 2.7.1999. Thereafter, the petitioner had preferred Writ Appeal No.1478 of 1999. The Division Bench of this Court had allowed the writ appeal on 15.10.1999 with the following directions:

“In view of the observations made above, the appeal is allowed. The impugned order is set aside. The respondent-authorities are directed to consider the cases of the appellants for absorption and regularization as Watch and Ward/Security Guards with a period of three months from today especially in view of the fact that the appellants have become overaged after serving the respondent for about 11 long years. The writ appeal is accordingly allowed. No costs.”

Learned counsel for the petitioner had further contended that in pursuance to the orders passed by the Division Bench in the writ appeal, the appellants therein were absorbed with the respondent-authorities and that the petitioner also stands on the same footing. Learned counsel also contended that in another similar case in WP.No.26770 of 2010, this Court had passed orders on 8.6.2017 directing the respondents to absorb the petitioner therein and that the petitioner in the present case also stands on the same footing.

Learned standing counsel appearing for the respondents had contended that all the posts which were earmarked for Watch and Ward were filled up in pursuance to B.P.Ms.No.36 dated 18.5.1997 and the post where the petitioner is seeking absorption was already

filled up by an individual on compassionate grounds and there are no vacancies and hence, that the writ petition is liable to be dismissed.

This court having considered the submissions made by both the parties is of the considered view that the petitioner is also similarly situated as that of appellants in W.A.No.1478 of 1999.

Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for absorption as Watch and Ward and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 12/10/2018
lkv



