

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13389 OF 2003

ORDER:

This writ petition is filed seeking a writ of *Mandamus* to declare that the petitioners are entitled to be treated as having been absorbed/regularized as Junior Assistants/Typists with effect from the date on which they had completed five years of service in terms of G.O.Ms.No.212 dated 22.4.1994, and entitled for counting seniority in the cadre of Junior Assistants/Typists from 13.9.1991 for placement with those persons who were appointed on consolidated/daily wages with all consequential benefits including promotion to the cadre of 'Senior Assistants' on that basis by holding the action of the respondents, in placing the petitioners below persons who were appointed on daily wages/consolidated pay and appointed subsequent to the petitioners in the seniority list of Junior Assistants/Typists vide proceedings dated 4.1.2002, issued by the 1st respondent and seeking to fill up the posts of 'Senior Assistants' without considering the claims of the petitioners, as illegal and arbitrary.

It has been contended by the petitioners that they were appointed as 'Clerks' during 1984-85 and their services were regularized by the respondents on completion of five years of service as Non Technical Work Inspectors by G.O.Ms.No.182 dated 13.11.1991. The petitioners were regularized and they were continuing in service. The State Government, has issued service rules for the respondents Corporation vide G.O.Ms.No.33 dated 26.5.1998 and after issuance of service rules for the respondents Corporation, the petitioners were promoted as 'Junior Assistants' as they were fulfilled the qualifications for promotion to the posts

of 'Junior Assistants' vide proceedings dated 8.6.1999. The basic grievance of the petitioners is that they were fully eligible and qualified to be absorbed or regularized as 'Junior Assistants' from the date of their completion of five years i.e with effect from 1991. The respondents instead of regularizing their services as 'Junior Assistants', have erroneously regularized their services as 'Non Technical Work Inspectors' and the petitioners to be allowed to count seniority from the date of their initial regularization i.e 13.11.1991, but not from 1999, when they were promoted in pursuance of G.O.Ms.No.33 dated 26.5.1998.

Learned Standing Counsel appearing for the respondents had contended that the petitioners' services were regularized in pursuance to G.O.Ms.No.182 dated 30.11.1991, and the question of once again regularization of their services by applying G.O.Ms.No.212 dated 22.4.1994, would not arise. G.O.Ms.No.212 is intended for such of those persons whose services were not regularized. In the instant case, the services of the petitioners were regularized in terms of G.O.Ms.No.182 dated 13.11.1991 and the petitioners have not raised any objections when their services were regularized in terms of G.O.Ms.No.182, now they cannot turn around and contend that their services should be re-regularized in terms of G.O.Ms.No.212 dated 22.4.1994, and they cannot contend that their services should be regularized as "Junior Assistants" but not as "Non Technical Work Inspectors", and the said contention is totally incorrect and cannot be accepted and the writ petition is liable to be dismissed.

Having considered the rival submissions made by the parties, this Court is of the view that the services of the petitioners

were regularized in terms of G.O.Ms.No.182 dated 13.11.1991 as “Non Technical Work Inspectors” and the question of considering their services once again for re-regularization in terms of G.O.Ms.No.212 dated 22.4.1994, cannot be considered. G.O.Ms.No.212, was issued by the State Government, as a measure of policy to regularize such of those daily wage workers whose services were not regularized. The intent of G.O.Ms.No.212, is not to reconsider such of the cases where the services of employees were already regularized. If conditions of G.O.Ms.No.212 dated 22.4.1994, are to be complied with, the petitioners could not have been regularized with effect from 13.11.1991, the petitioners cannot turn around and contend that their services have to be re-regularized in terms of G.O.Ms.No.212. There are no merits in the writ petition and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs. As a sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall also stand closed.

ABHINAND KUMAR SHAVILI,J

Date:25.09.2018.
Gk.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Date:25.09.2018

Gk.