

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.3108 & 3196 OF 2002

COMMON ORDER:

1. Both the cases are being disposed of by way of this common order as the issue involved in these writ petitions is one and the same.

2. Both the writ petitions are filed seeking to issue a writ of Mandamus declaring the action of the respondents in selecting the candidates, who secured less marks than the petitioners, for the post of Junior Plant Attendant (JPA) in pursuance of the notification dated 2.2.1999 in the guise of Memo dated 6.10.1999, and further action in not considering the petitioners herein for the said post in spite of their merit, by not applying the judgment of this Court reported in 2000(6) ALD 56, dated 6.9.2000 just on the ground that the petitioners had not approached this Court, as illegal and arbitrary, and consequently, to direct the respondents to consider the case of the petitioners also to the post of JPA as per the judgment of this Court in W.P.No.23439 of 1999 and batch dated 6.9.2000.

3. Heard Sri G.V. Shivaji, learned Counsel for the petitioners and Smt. K. Udaya Sri, learned Counsel for the respondents.

4. When these matters are taken up for hearing, it is reported by the learned Counsel for the petitioners that the cause in W.P.No.3196 of 2002 in respect of petitioners Nos.1 to 5 therein does not survive. Therefore, W.P.No.3196 of 2002 is dealt with only in respect of petitioners Nos.6 to 8 therein.

5. The case of the petitioners is as follows:

The petitioners have obtained ITI qualification in the Trade of Electrician and they are fully eligible and qualified to be appointed as

Junior Plant Attendants (JPA), and while the petitioners have been working on contract basis, the respondents issued notification dated 2.2.1999 to fill up 222 posts of JPA in various trades. After issuance of notification, the respondents issued a memo dated 6.10.1999 and vide the said memo, the respondents intended to give weightage marks to the persons, who rendered services on contract basis. The maximum weightage marks allowed in respect of contract labour was 40 marks. Some of the persons responded to the said memo and filed W.P.No.23439 of 1999 challenging the said memo i.e., allocation of 40 marks as weightage to the in-service candidates. This Court vide order dated 6.9.2000 declared that 40 marks weightage in favour of in-service candidates was on higher side and that 10% of the total marks can be awarded as weightage marks for the contract labour. It was also held that if any weightage has to be given to the contract labour, it shall not exceed 10% of the total marks prescribed for selection and to put it aptly, the respondent-Corporation can proportionately reduce the marks obtained by the candidates in the qualifying examination by 80 marks, 10 marks for viva-voce and 10 marks for weightage depending upon the length of service. When the said writ petition was disposed of, contempt cases were filed by certain candidates, who are not the parties in W.P.No.23439 of 1999. This Court in C.C.No.110 of 2001 and batch, passed orders on 29.6.2001 to the following effect:

“As most of the contract labour, who are not the petitioners in the earlier writ petitions, have now approached this Court by way of filing Contempt Cases and much water has flown from the date of judgment i.e., 06.09.2000, I feel that no purpose will be served in directing the respondent-Corporation to issue a fresh notification and invite applications afresh. Hence, I would like to limit the consideration for the persons, who are working as contract labour and approached this Court by way of filing writ petitions and the contract labour, who have now approached this Court by filing Contempt Cases only. The respondent-Corporation shall consider the claims of all these individuals by process of selection and after preparing the merit list, appointments may be made

duly observing the rule of reservation in favour of the reserved categories. It is further clarified that the consideration is limited to the contract labour, who worked or are working in KTPS only, and their age has to be reckoned from the date of their first engagement.”

This Court in C.Cs. has confined the relief only in respect of the petitioners who have approached this Court. Admittedly, in the instant case, the petitioners have approached this Court challenging the grant of 40 marks weightage to the contract labour.

6. Be that as it may, the principal contention of the petitioners is that the persons, who have secured less marks than the petitioners have been selected and appointed contrary to law and moreover, the respondents have appointed more number of persons than the notified vacancies and therefore, the case of the petitioners can be considered for appointment as it was done in the case of other individuals.

7. The learned Counsel appearing for the respondents contended that in view of the findings of this Court in contempt cases that the relief is confined only to the parties, who have approached this Court, and the petitioners herein have not approached this Court challenging the award of 40 marks weightage, the relief claimed by the petitioners cannot be granted, and though the petitioners have secured more marks than the persons who were already appointed, the respondents cannot at this stage be directed to consider the case of the petitioners for appointment of JPAs.

8. This Court has considered the rival submissions made by the parties and perused the material available on record. In view of the findings of this Court in Contempt Cases, this Court is of the view that the relief granted in W.P.No.23439 of 1999 on 6.9.2000 is confined only to the petitioners therein and since the petitioners were not parties in

W.P.No.23439 of 1999 and batch of cases, no relief can be granted to the petitioners. There are no merits in both the writ petitions.

9. Accordingly, both the Writ Petitions are dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 23rd August, 2018.
Nn.



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.3108 & 3196 OF 2002



23/08/2018

Nn.