

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 45577 of 2018

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring that the petitioner is entitled for participation in the written test scheduled to be held on 16.12.2018 or any other date pursuant to the announcement of the written test on 11.12.2018 vide proceedings dated 11.12.2018 issued by the 2nd respondent and for consideration for the post of sub-engineer, basing on his B.Tech (Mechanical) degree qualification, in the light of the order passed by this Court in W.P.No.42287 of 2016 dated 18.01.2017. A consequential direction is also sought to the respondents 1 and 2 to permit the petitioner to appear for the written test for the post of sub-engineer scheduled to be held on 16.12.2018 or any other date.

Heard Sri S.R. Sanku, learned counsel for the petitioner, Ms. K. Aruna, standing counsel for AP Genco, appearing on behalf of the respondents 1 to 3, and learned Government Pleader for Energy appearing on behalf of the 4th respondent.

Learned counsel for the petitioner has contended that the petitioner possessed B.Tech (Mechanical) qualification and his case was not considered for the post of sub-engineer, for which the qualification prescribed is Diploma in polytechnic, on the ground that the petitioner possessed higher qualification. He submits that similar issue fell for consideration before this Court in W.P.No.42287 of 2016

and this Court disposed of the said writ petition vide orders dated 18.01.2017 and prayed that similar orders may be passed in the present writ petition. The operative portion of the said order reads as follows:

“As the Service Regulations of the respondents do not prohibit consideration of candidate possessing higher qualification than the prescribed qualification, the respondents could not have ignored the claim of the petitioners on the ground that they possess higher qualification. In my opinion, rejection of the petitioners’ claim on this ground is not valid. The learned standing counsel appearing for the respondents on instructions submitted that so far the written test for the post sub-engineer is not held.

The writ petition is disposed of directing the respondents to permit the petitioners to apply for the post of sub-engineer and subject them to written test as and when conducted.”

On the other hand, learned standing counsel for the respondents 1 to 3 has contended that the minimum qualification prescribed for the post of sub-engineer is Diploma in polytechnic and as the petitioner possessed higher qualification, his case cannot be considered and the persons with Diploma in polytechnic will have to lose their opportunity, if the case of the petitioner is considered for appointment to the post of sub-engineer.

This Court having considered the rival submissions made by the parties and perused the record is of the considered view that the respondents cannot reject the claim of the petitioner only on the ground that he possessed higher qualification than what has been prescribed and there is no such prohibition under the Service

Regulations and, therefore, the writ petition can be disposed of in terms of the orders dated 18.01.2017 passed by this Court in W.P.No.42287 of 2016.

Accordingly, the writ petition is disposed of directing the respondents to permit the petitioner to apply for the post of sub-engineer and subject him to written test scheduled to be held on 16.12.2018 or any other subsequent date.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

14th December, 2018
Note: Issue C.C. today.
(b/o)
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(disposed of)

14th December, 2018

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