

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.802 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“to issue a Writ, Order or Direction or more particularly one in the nature of Mandamus declaring the inaction of the 3rd respondent to consider the representation of the petitioners dt 02.01.2019, 03.01.2019 and 05.01.2019 and to consider the petitioners grievance in the age relaxation for the 1st petitioner 1 year and the 2nd petitioner 5 years to the post of Artist in the 3rd respondent organisation in terms of the judgment of the Division Bench of this Honble Court in W.P.No.320 of 2017 is illegal, highly discriminatory, arbitrary, unjust, unfair, unlawful, unconstitutional, irrational, mockery, perverse and contrary to the law and Articles 14, 16, 19 and 21 of Constitution of India and against to the catena of judgments of an Apex Court and this Honble Court and consequently direct the 3rd respondent to consider the representations of the petitioners dt 02.01.2019, 03.01.2019 and 05.01.2019 in age relaxation for the 1st petitioner 1 year and the 2nd petitioner 5 years to recruit the post of Artist in the 3rd respondent organization and pass such other order or orders may deem fit and proper in the circumstances of the case.”

Heard Sri C.Prabhakar, learned counsel appearing for the petitioners and learned Special Government Pleader appearing for the respondents.

It is the case of the petitioners that they have played an important role in the struggle for formation of State of Telangana. The respondents have taken a policy decision to recognize the cultural talent of various individuals and recruited them as Artists in the 3rd respondent organization. The petitioners were also selected and appointed as Artists by

the 3rd respondent *vide* proceedings dated 30-03-2015. While so, W.P. (PIL) No.320 of 2017 was filed before this Court, challenging the appointments made to the posts of Artists. This Court disposed of the said writ petition on 10-07-2018 and the operative portion of the said order reads as under:

“on the given fact scenario, having particular regard to the time lag between early 2015 and now, as well as noticing that those 550 appointees are not before us, we are of the view that it is the situational need that the third respondent carries out the due modality of selection in accordance with norms in consonance with settled principles of law, by advertising all the posts, including the 550 which are occupied by different persons, and by carrying out a competitive selection by giving opportunity also to the 550 persons who are now in office, to compete in such selection. This would justify the situational requirement to balance the rights of those persons who have been excluded as well as the eligibility of those who are now working. We would hasten to add that this judgment does not stand in the way of the third respondent or the Government considering the enhancement of the total number of posts of artists who could be appointed under the third respondent, Telangana Samskruthika Sarathi, having regard to the practical wholesomeness of the issues in hand; also bearing in mind the institutional need.

For the aforesaid reasons, this writ petition is ordered directing that the third respondent shall notify all the posts of artists in its service and carry on the requisite selection in terms of what is stated above. The process thereof shall start within a period of three weeks from the date of receipt of a copy of this order and shall be completed, without fail, within a period of three months continuance of

the persons, who are now holding office as artists;
however that their such continuance would depend
upon the result of the selection process as ordered
hereinabove.”

In pursuance of the said order, the respondents have issued a notification on 24.12.2018 inviting applications from all the eligible candidates for appointment to the posts of Artists. While issuing the said notification, the respondents have fixed the minimum age of 18 years and upper age limit of 44 years as on 24.12.2017. The said age was relaxable by five years in respect of BCs, STs and SCs and in respect of physically handicapped persons, it was relaxable by 10 years.

The grievance of the petitioners is that they have crossed the upper age limit by one year and five years respectively and when they were considered for appointment during March, 2015, the said age criteria was not fixed; and that only when the respondents have issued the notification dated 24.12.2017 in pursuance of the judgment rendered by this Court, they have fixed the minimum and maximum age limit for the posts of Artists.

Learned counsel appearing for the petitioners contends that the Division Bench never directed to fix the age limit, it only directed the respondents to appoint Artists by following some selection procedure; that since the petitioners were already appointed as Artists way back in March, 2015, they

cannot be non-suited on the ground that in the subsequent notification dated 24.12.2017, they are not fulfilling the criteria of age prescribed by the respondents; and that appropriate orders be passed directing the respondents to relax the age in respect of those who were already appointed as Artists during March, 2015 and benefit of participating in the selection process be given to them.

Learned Special Government Pleader appearing for the respondents contends that no doubt, the Division Bench of this Court has not prescribed the age criteria, it only directed to select the candidates based on some selection procedure; that 550 Artists, who were already appointed during March, 2015, should be given opportunity to participate in the selection process.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if a direction is given to the respondents to consider the cases of 550 Artists including the petitioners, who were appointed during March, 2015, to participate in the selection process.

Accordingly, the Writ Petition is disposed of directing the respondents to consider the cases of 550 Artists including the petitioners, who were appointed during March, 2015, to

participate in the selection process, without reference to the age criteria. However, it is made clear that the relaxation of age should be given only in respect of the Artists who were appointed during March, 2015, but it cannot be extended to fresh candidates. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

1st February, 2019
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