

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.1014 of 2019

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the impugned Notification No.1 of 2018 dated 16.02.2018 insofar as providing 20 marks out of 100 marks to outsourced workers engaged by contractors under para VIII-A (ii) of impugned Notification dated 16.02.2018, as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently set aside the same.

Heard Ms.K.V.Rajasree, learned counsel for petitioners and Mr.C.Vidya Sagar, learned Senior Counsel for 2nd respondent.

It has been contended by the petitioners that they are un-employed youth fully eligible and qualified to be appointed as Junior Linemen. The grievance of petitioners is that the respondents have issued Notification No.1 of 2018 dated 16.02.2018 to fill up posts of Junior Linemen and the respondents have allocated 20 marks out of 100 marks in favour of in-service candidates, who are working on outsourced basis and that since 20 marks are allocated in favour of in-service candidates, the cases of the petitioners have not been considered, even though they have secured more marks in the selection process.

Learned counsel for petitioners further contended that the petitioners have secured ranks better than the persons, who are serving as in-service candidates and in-service candidates were appointed ignoring the cases of petitioners, who stood meritorious in the selection process and therefore, the Notification issued by respondents in allocating 20% of marks in favour of in-service

candidates is arbitrary and illegal and the same is liable to be set aside.

Learned Senior Counsel appearing for 2nd respondent has contended that as a policy decision, the respondents have given weightage of marks in favour of in-service candidates, who are working on outsourced basis, and no illegality has been committed by the respondents in giving weightage of marks and this factum of giving weightage of marks was very clearly set out in the Notification itself and the petitioners having responded to the said Notification without any protest, had participated in the selection process and when results have been announced, the petitioners cannot turn around and challenge the Notification, which is not permissible in law.

Learned counsel appearing for 2nd respondent has contended that when similar issue fell for consideration before the Hon'ble Supreme Court in ***RAMESH CHANDRA SHAH & OTHERS Vs. ANIL JOSHI AND OTHERS***¹, wherein the Hon'ble Supreme Court held that the persons, who have participated in the selection process cannot turn around after declaration of results and challenge the Notification.

In the instant case, the petitioners having responded to the said Notification, having participated in the selection process and having failed in the selection process, cannot turn around and challenge the Notification. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

¹ 2013 (11) SCC 309

This Court, having considered the rival submissions, is of the considered view that the petitioners having responded to the Notification No.1 of 2018 dated 16.02.2018 and having participated in the selection process cannot turn around, when they were unsuccessful in the selection process, and challenge the Notification after declaration of results contending that 20% of marks are allocated in favour of in-service candidates, more so, when they are unsuccessful in the selection process. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed.

After passing the orders, learned counsel for petitioners contended that the some of the outsourced employees were already absorbed pursuant to the earlier notification and their names are figuring in the selection list once again. Thereby, the respondents are giving double benefit to the outsourced employees, who are already absorbed and the names of those persons cannot be included in the selection list.

Learned Standing Counsel appearing for 2nd respondent has contended that the 2nd respondent will examine the selection list and if the names of persons, whose services were already regularised, pursuant to the earlier Notification, were found in the selection list, their names will be deleted from the selection list.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

23-01-2019
Prv

