

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.2261 OF 2019

ORDER:

This writ petition is filed seeking a writ of Mandamus to declare the action of the respondents in not continuing the petitioner as Pharmacist Grade-II in PHC, Singareni, Bhadrachalam District, in pursuance of the proceedings dated 16.07.2018 of the 2nd respondent, as arbitrary and illegal and also to declare that the petitioner is entitled to continue in service as Pharmacist Grade-II till new recruitment takes place or till the date of his absorption in pursuance of G.O.Ms.No.19, dated 22.03.2017.

Heard Sri M. Srinivasa Rao, learned counsel for the petitioner, and the learned Government Pleader for Services-II appearing for the respondents.

It has been contended by the petitioner that he belongs to Scheduled Caste community and he is fully eligible and qualified to be appointed as Pharmacist Grade-II. The petitioner also submitted that the respondents have issued a notification on 23.08.2007 to fill up the posts of Pharmacist Grade-II and, in pursuance thereof, he had responded to the said notification and after undergoing regular selection process, he was selected and appointed as Pharmacist Grade-II on contract basis on 07.01.2009 and thereafter his tenure was extended from time to time. However, his services were not renewed beyond 2017. The petitioner further contends that he along with another contract Pharmacist Grade-II filed an O.A before the Administrative Tribunal challenging the non-renewal of their contract period, and thereafter the said O.A was transferred to this Court and it was re-numbered as W.P (TR) No.429 of 2017, which was dismissed on 27.07.2017. Challenging the same,

W.A.No.1499 of 2017 was filed and the same was disposed of by a Division Bench of this Court on 16.10.2017 with the following observations:

“In the light of the two proceedings dated 20.07.2017 and 01.09.2017 issued by respondent No.2 extending the contract services of the appellants up to 31.03.2018, the respondents are directed to continue them till the said date. Discretion is however given to the respondents to take a decision whether to extend the contract service of the petitioners or not from 01.04.2008.

Subject to the above observations and directions, the Writ Appeal is disposed of.”

Learned counsel for the petitioner further submits that after disposal of the aforesaid writ appeal by this Court, the respondents have issued proceedings dated 16.07.2018, wherein a decision was taken to further continue the para medical staff including Pharmacists Grade-II from 01.04.2018 to 31.03.2019. However, the said benefit was not extended to the petitioner. Therefore, challenging the same, the present writ petition is filed.

Learned counsel for the petitioner further submits that when the respondents, in principle, have decided to extend the contract period of Pharmacists Grade-II vide proceedings dated 16.07.2018, in all fairness, the respondents ought to have extended the services of the petitioner upto 31.03.2019 or till the posts of regular Pharmacists Grade-II are filled up by way of direct recruitment.

Learned counsel also submits that the post held by the petitioner is filled up by transferring a regular candidate in the cadre of Pharmacist Grade-II. However, he contends that there is another post of Pharmacist Grade-II vacant in PHS, Chinthakani, Khammam District, and, therefore, the case of the petitioner can be considered and his services can be

continued on contract basis up to 31.03.2019 in pursuance of the proceedings dated 16.07.2018.

Learned Government Pleader appearing for the respondents submits that in pursuance of the orders passed by a Division Bench of this Court in W.A.No.1499 of 2017, dated 16.10.2017, the services of the petitioner are continued upto 31.03.2018 and thereafter his services were not renewed, as the posts of Pharmacists Grade-II on regular basis were notified by the Telangana State Public Service Commission (TSPSC). However, the learned Government Pleader contends that since the TSPSC has not allotted candidates, by way of direct recruitment, to the Department so far, the case of the petitioner will be examined and appropriate orders would be passed in accordance with the decision taken by the respondents vide proceedings dated 16.07.2018.

This Court, having considered the rival submissions of the learned counsel for respective parties, is of the considered view that the petitioner be continued as Pharmacist Grade-II till 31.03.2019 in pursuance of the proceedings dated 16.07.2018 or till the TSPSC allots candidates by way of direct recruitment.

With these observations, the writ petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 18th February, 2019
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