THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.NOS.15741, 16479, 24148 AND 32464 OF 2017, 14606 AND 37919 OF 2018, 1909, 2063, 4052, 5812, 6521, 7165, 7380, 7608, 7616, 7617, 7619, 7836, 8101, 8115, 8122, 8132, 8197, 8205, 8218, 8612, 8616, 8632, 8635, 8657, 8664, 8671, 8672 AND 8680 OF 2019

COMMON ORDER

With the consent of all the counsel, these writ petitions, which involve common issue, are being disposed of at the stage of admission, by passing common order.

For convenience, the facts in W.P.No.8657 of 2019, are being referred to:

The petitioners in this writ petition, claim to be working in the Telangana State Power Generation Corporation as unskilled labour on outsourcing basis, since 1995, 2012 and 2014 onwards, and Employees Provident Fund (EPF) numbers were also allotted to them, and deductions were also made from their pay. In pursuance of the settlement arrived at between the trade unions and the Telangana State Power Generation Corporation (for short 'the Corporation') under Section 12(1) of the Industrial Disputes Act, 1947, the Corporation agreed to absorb/regularize the outsourced personnel, who were working as on 4.12.2016, and issued guidelines vide T.G.O.O.No.98/CGM(HR)/2017 dated 01.06.2017. When the case of some of the unskilled labour was not considered for absorption/regularization, in terms of the above said guidelines, they filed W.P.No.20804 of 2018 and batch, and a Division Bench of this court, by common order dated, 03.10.2018, directed the respondents herein to undertake the process of absorption by considering the eligible candidates,

who were working as on 4.12.2016 and complying with other conditions of EPF deductions.

The grievance of the petitioners is that though they were working as on the cut-off date i.e., 4.12.2016, and fulfill the eligibility criterion as per the guidelines of the Corporation dated 01.06.2017, their cases have not been considered for absorption/regularization, and that similarly situated persons were absorbed vide T.G.O.O.217/CGM(HR)/2017, dated 29.07.2017.

Hence, the petitioners in all these writ petitions, seek for a direction to the respondent – Corporation to consider their cases for absorption/regularization in terms of the guidelines issued by the Corporation dated 1.6.2017 and the judgment of the Division Bench of this court, referred to above, and also on par with those employees regularized vide proceedings dated 29.07.2017.

Heard the learned counsel appearing for the petitioners in all these writ petitions, who reiterated the above averments.

Sri G.Vidya Sagar, learned Senior Counsel, appearing for Smt. A.Deepthi, learned Standing counsel for the respondent – Corporation, on instructions, would submit that if the petitioners fulfill the eligibility criteria, the Committee constituted in that behalf, would examine their cases and take appropriate decision.

Division Bench of this court in W.P.No.20840 of 2018 dated 3.10.2018, while considering the very same issue, disposed of the writ petitions, with the following directions:

"12. Therefore in fine, all the writ petitions are disposed of to the following effect:

(i) Persons who claim that they fulfill the criteria laid down in the guide-lines/orders issued by the Corporation / Companies, may approach the Committee and satisfy the Committee that they are covered by the Scheme and that they fulfill the eligibility criteria. The Committee may look into the same and take a decision within 12 weeks;

(ii) persons who were not in employment on the cut-off date viz., 04.12.2016 cannot either seek the benefit of the scheme or challenge the scheme. The scheme prescribing a cut-off date is a product of settlement reached under the Industrial Disputes Act, 1947. The settlement was under Section 12(3) of the Act. Therefore, one of the conditions prescribed in the scheme viz., the cut-off date, cannot be challenged. Hence, the challenge to the prescription of a cut-off date contained in the scheme is rejected. However, these persons are given liberty to go before the Labour Court or any other appropriate Forum prescribed by any Special Enactments, if they have a right of absorption or regularization conferred by such Special Enactments;

(iii) persons who are out of the scheme on account of non-payment of contribution to the Employees Provident Fund, cannot also seek the benefit of the Scheme solely on the ground that the fault lay with the Distribution Companies. If these persons have any right conferred by any special enactment for regularization and/or absorption, they are given liberty to move the Fora prescribed under those enactments;

(iv) the claims of those engaged by the Civil Contractors for construction purposes are rejected.

This court, having considered the facts and circumstances of the cases and the submissions of the learned counsel, and the above directions of the Division Bench, without expressing any opinion on merits, dispose of the writ petitions at the stage of admission, directing the petitioners to make individual representations to the Committee constituted for implementation of the scheme for absorption / regularization in terms of the guidelines issued by Telangana State Power Generation Corporation, represented by its Chairman and Managing Director vide T.G.O.O.No.98/CHM(HR)/2017 dated 01.06.2017, staking their claim along with necessary documents to demonstrate that they are working as on the cut-off date i.e., 04.12.2016 and fulfill the eligibility criteria, within a period of two weeks from the date of

receipt of a copy of this order; and upon receipt of such representations, the Committee may look into the same and take a decision within a period of twelve weeks thereafter, as per the above directions of the Division Bench.

Interlocutory applications pending, if any, shall stand closed.

No order as to costs.

ABHINAND KUMAR SHAVILI,J

DATE:24—04—2019

AVS

HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD