

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.3820 of 2019

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not filling up the Roster Point No.106 earmarked for Blind or Low Vision persons by interchanging the post among the three categories of Physically Handicapped in terms of orders issued in G.O.Ms.No.42 dated 19-10-2011 even though the said vacancy under Roster Point No.106 was not filled up for the last two recruitment years i.e. October 2017 and January 2019, without any justification or reasonable cause under the guise of correspondence between the respondents, as illegal, arbitrary, unjust, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India and consequently declare that the petitioner is entitled for promotion to the post of Superintendent in the Roster Point No.106 with effect from the date of his eligibility with all consequential and attendant benefits.

2. Heard Sri P.Narasimha, learned counsel for the petitioner and the learned Government Pleader for Services-I appearing for the respondents..

3. Petitioner contends that he is working as Senior Assistant with the respondents and he is fully eligible and qualified to be promoted to the next higher post of Superintendent. He further submits that he is Hearing Impaired person and the State

Government has taken a policy decision to extend reservation even in the matters of promotion in respect of disable persons. He further contends that roster point No.106 is earmarked for visually handicapped persons and the said roster point could not be filled due to lack of eligible candidates during the last recruitment years i.e. October 2017 and January 2019 and since there were no qualified visually impaired persons, the said post was carried forward to the next year.

4. He further contends that G.O.Ms.No.99, dated 04-03-2013, which is an amendment to Rule 22, specifically states that whenever persons of disability are not available to be filled up in their respective roster points, the same has to be carried forward for next year and even if there are no available candidates in their respective categories, then the said post can be interchanged among other handicapped persons.

5. He further contends that in this case, since no qualified visually impaired person was available for the last recruitment years i.e. October 2017 and January 2019, in all fairness, the respondents ought to have considered the case of the petitioner who is belonging to hearing impaired category for promotion to the post of Superintendent. But the respondents are not considering the case of the petitioner.

6. Therefore, learned counsel for the petitioner submits that appropriate orders be passed directing the respondents to consider the case of the petitioner for promotion to the post of Superintendent against roster point No.106 by interchanging the said post from visually handicapped category to that of hearing impaired category, with all consequential benefits.

7. Learned Government Pleader for Services-I submits that since there were no visually handicapped persons, the post could not be filled up and the case of the petitioner would be considered in terms of G.O.Ms.No.99 dated 04-03-2013 and appropriate orders would be passed accordingly.

8. Having regard to the rival submissions made by the parties, this Court is of the considered view that the Writ Petition can be disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Superintendent in roster No.106, which is earmarked for visually handicapped persons, by interchanging the said roster point to other handicapped persons like petitioner, as there was no visually handicapped person, with all consequential benefits. This entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

9. With these observations, the Writ Petition is disposed of. No costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 14-06-2019
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