

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION Nos.4002 and 6116 of 2019

COMMON ORDER:

W.P.No.4002 of 2019 is filed seeking the following relief :-

“.... to issue an appropriate writ order or directions more particularly one in the nature of Writ of Mandamus declaring the action of the respondents more particularly the respondent Nos.4 and 5 in making efforts to continue the services of the respondent Nos.6 to 20, who were appointed as Assistant Engineers (Electrical) posts on contract basis for a period of one 1 year in CESS Ltd in pursuance to the Notification No 01/2018 even after completion of one (1) year contract period i.e., after 02/03/2019 without issuing fresh notification for conducting direct recruitment for appointment of sixteen 16 vacant posts of Assistant Engineers (Electrical) in terms of G.O.Rt.No.443 dated 31/07/2017 issued by the respondent No.1, as highly, illegal, bad in law, arbitrary and contrary to the provisions of Cooperative Societies Act, 1964 and also violation of Articles 14 and 16 of the Constitution of India and consequently direct the respondents more particularly the respondent Nos.4 and 5 to fill up the sixteen 16 Assistant Engineers (Electrical) vacant posts in CESS Ltd through direct recruitment by issuing fresh notification in terms of G.O.Rt.No.443 dated 31/07/2017 henceforth”.

W.P.No.6116 of 2019 is filed seeking the following relief :-

“..... to issue a proper writ, order or orders particularly one in the nature of Writ of Mandamus (a) to declare the action of the respondent Nos.4 and 5 in terminating the services of the petitioners on the ground of contract period completed and also treating the appointment of the petitioners on contract basis when the petitioners were appointed after selection and underwent training and appointed to sanctioned posts which are available and contrary to condition in Clause No. (i) of appointment orders is arbitrary and illegal (b) to declare the resolution dated 28/02/2019 is contrary to the clause No.(i) of the appointment order for renewal and also when the petitioners are working in permanent and sanctioned post and when no other Assistant

Engineers are available for manning the work of the petitioners and budget is available without giving any reasons for terminating the services of the petitioners is arbitrary and illegal and set aside the resolution dated 28/02/2019 (c) Consequently direct the respondents to continue the petitioners in service....”.

Heard Mr.Bethi Venkateshwarlu and M.Rama Rao, learned counsel for petitioners and the learned Standing Counsel for respondents.

The petitioners submit that they are fully eligible and qualified to be appointed as Electrical Engineers and Mechanical Engineers. The respondents have issued Notification No.1 of 2018 to fill up the post of Assistant Engineer (Electrical). The petitioners have responded to the said Notification and after undergoing regular selection process, they were selected as Assistant Engineer (Technical) initially for a period of one year. However, the contract period would be renewed on year to year basis subject to performance of petitioners.

The grievance of petitioners is that the respondents without considering and examining the cases of petitioners in terms of extension of contract tenure have passed Resolution on 28.02.2019 unilaterally taking a decision to discontinue the services of petitioners and take up recruitment process afresh on regular basis. Challenging the same, the present writ petitions are filed.

Learned counsel for petitioners contended that one of the terms of the conditions of the appointment of the petitioners is that the services of the petitioners would be extended by renewing their services based upon their performance. The respondents without considering the performance of the petitioners have unilaterally

resolved to terminate their services without taking the performance of the petitioners into account. Therefore, learned counsel for petitioners contended that the petitioners be continued in service by extending tenure of contract by duly taking into account the performance of petitioners.

Learned Standing Counsel appearing for respondents has contended that the Managing Committee of the respondents has passed a Resolution on 28.02.2019 resolving to terminate all the contract employees on completion of their tenure of appointment and to undertake regular recruitment process by way of direct recruitment. If so advised, the petitioners are entitled to compete with regular appointment as Assistant Engineers. But, the petitioners do not have any right to continue in service on contract basis. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

The petitioner in W.P.No.4002 of 2019 is challenging the appointment of petitioners in W.P.No.6116 of 2019. The petitioner in W.P.No.4002 of 2019 is seeking a direction to the respondents not to renew the tenure of contract employees beyond contract period and sought a direction to direct the respondents to take up regular selection process of recruitment by duly considering the case of the petitioner in W.P.No.4002 of 2019 and contends that the official respondents do not have any right to continue the unofficial respondents as Assistant Engineers on contract basis beyond the contract period.

This Court, having considered the rival submissions, is of the considered view that these writ petitions can be disposed of

directing the official respondents to proceed with the regular recruitment process in terms of Resolution dated 28.02.2019 and complete the process within a period of three months from the date of receipt of a copy of this order. Till such time, the contract employees should be continued on the same terms and conditions. The above said direction is being issued by taking into account the fact that a contract employee cannot be replaced by another contract employee till a regular employee joins duty. Therefore, the petitioners, who are working as Assistant Engineers (Electrical) be continued till the official respondents take up regular recruitment process.

With the above observations, the writ petitions are disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 26-03-2019
Prv

