

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.2571 & 5455 of 2018

COMMON ORDER:

Since the issue involved in these writ petitions is one and the same, both these writ petitions are being disposed of by way of common order.

These writ petitions are filed challenging the action of the respondents in issuing proceedings dated 04.11.2015 and 20.07.2017 rejecting the claim of the petitioners for treating the period from 26.12.2011 to 06/07.02.2012 as compulsory wait period, as illegal, arbitrary, discriminatory, violative of Articles 14, 16 and 21 of the Constitution of India and in violation of principles of natural justice and also sought a consequential direction to set aside the said rejection proceedings and direct the respondents to treat the period from 26.12.2011 to 06/07.02.2012 as on duty by treating the same as compulsory wait period and extend all service benefits including seniority and other benefits to the petitioners.

Heard Sri R. Harish Kumar, counsel for the petitioners, and the Government Pleader appearing for the respondents.

It has been contended by the petitioners that they are fully eligible and qualified to be appointed to the post of Lecturer in Government Degree Colleges and they have responded to notification No.12/2009, dated 13.10.2009, and participated in the selection process. The petitioners further submit that having faired decently

well in the selection process, they were selected and appointed as Degree College Lecturers in their respective subjects. However, some of the unsuccessful candidates have challenged the appointment of the petitioners by filing O.A.Nos.9927, 9648 and 9767 of 2011 before the Tribunal and the Tribunal *vide* interim orders dated 23.12.2011 suspended the selection lists. It is the further case of the petitioners that the respondents have filed vacate petitions in the said O.As and the Tribunal *vide* orders dated 03.02.2012 vacated the interim orders dated 23.12.2011. It is also contended that only after vacation of the interim orders, the petitioners were given appointment orders and they have joined in their respective posts. The grievance of the petitioners is that they have submitted representations to the respondents requesting to treat the period from 26.12.2011 to 06/07.12.2012 as compulsory wait period, but the respondents *vide* proceedings dated 20.07.2017 rejected the claim of the petitioners in W.P.No.2571 of 2018 and *vide* proceedings dated 04.11.2015 rejected the claim of the petitioners in W.P.No.5455 of 2018.

Counsel for the petitioners submitted that in similar circumstances, the respondents have considered the very same issue favourably in respect of some direct recruitees *vide* G.O.Rt.No.88 dated 06.02.2013, but when it has come to the case of the petitioners, the very same respondents have rejected the claim of the petitioners. Therefore, counsel for the petitioners submitted that the action of the respondents in denying the claim of the petitioners is discriminatory and, therefore, the impugned rejection orders are liable to be set aside.

Counsel for the petitioners, therefore, submits that appropriate orders be passed by setting aside the impugned rejection orders and direct the respondents to treat the period from 26.12.2011 to 06/07.02.2012 as spent on duty by treating the same as compulsory wait period and extend all consequential benefits including seniority and other service benefits to the petitioners.

Government Pleader appearing for the respondents had drawn attention of this Court to the counter affidavit, stating that the direct recruits will get service benefits only from the date of joining to their duties, but not earlier thereto. Admittedly, in the instant case, the petitioners have reported to duty on 06/07.02.2012 and the question of granting service benefits prior thereto would not arise. Therefore, there are no merits in the writ petitions and the writ petitions are liable to be dismissed.

This Court, having considered the rival submissions made by learned counsel for the parties, is of the considered view that when the respondents have considered similar issue favourably in respect of some of the candidates, who were selected in pursuance of the very same notification, *vide* G.O.Rt.No.88 dated 06.02.2013 treating the period from 26.12.2011 to 03.02.2012 as 'compulsory wait', the petitioners should also be extended the same benefit. Therefore, impugned rejection orders are liable to be set aside and accordingly the same are set aside. Further, the respondents are directed to treat

the period from 26.12.2011 to 06/07.02.2012 as 'compulsory wait' and extend all service benefits including seniority, to the petitioners.

Accordingly, these writ petitions are allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

30th July 2019
v v

