

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.9929 OF 2019

ORDER:

This writ petition is being disposed of at the admission stage with the consent of both parties.

This writ petition is filed for the following relief:

“..to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declare the impugned action of the respondents in denying petitioner's claim for appointment by transfer to the post of Junior Technical Officer from Ministerial Services to Engineering Services while considering similar requests in respect of number of Junior Assistants/Typists vide G.O.Ms.No.63 dt.09.06.2010, G.O.Ms.No.110 dt.19.12.2013, G.O.Rt.No.35 dt.12.01.2016 and G.O.Rt.No.74 dt.23.01.2016 and denying the said benefit on the pretext of amended Rules in G.O.Ms.No.31 dt.25.04.2018 by not taking the vacancies exists and available prior to amendment when his request is under correspondence among the respondents is illegal, arbitrary, violation of Articles 14 and 16 of the Constitution of India and consequently hold that the petitioner being similarly placed Ministerial service employee is entitled to be given the benefit against the exists and available vacancies prior to amendment as per the law laid down by the Apex Court in **Y.V. Rangaiah's case** by taking into consideration of the above G.Os, with all consequential benefits and pass such other order or orders as this Hon'ble Court may deem fit.”

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

It has been contended by the petitioner that he is working as Typist and he is fully eligible and qualified to be appointed by transfer to the post of Junior Technical Officer from Ministerial Services to the Engineering Services, but the respondents are not considering his case. The petitioner further submits that similar benefit was extended to several other Junior

Assistants/Typists vide various G.Os issued by the respondents. In fact, vide letter dated 04.04.2019, the Superintending Engineer has also recommended the case of the petitioner for appointment by transfer to the post of Junior Technical Officer, but so far the respondents have not considered the case of the petitioner on the ground that the Rules were amended vide G.O.Ms.No.31 dated 25.04.2018 and the channel of appointment by transfer to the post of Junior Technical Officer from Ministerial Services was deleted. The petitioner further submits that he has submitted a representation to the respondents on 16.02.2018, but so far the respondents have not passed any orders on the said representation.

Learned counsel for the petitioner contends that in view of the law laid down by the Apex Court in **Y. V. Rangaiah v. J. Sreenivasa Rao**¹, in the vacancies which are available and which were in existence prior to the amendment, the case of the petitioner has to be considered. Learned counsel also submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for appointment by transfer to the post of Junior Technical Officer in accordance with the Rules.

Learned Government Pleader appearing for the respondents had submitted that the case of the petitioner would be considered and appropriate orders would be passed on the representation submitted by the petitioner on 16.02.2018 in accordance with law.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that this writ petition can be disposed of directing the respondents to consider the representation submitted by the petitioner on 16.02.2018 by duly taking

¹ 1983 (3) SCC 284

into account the recommendations made by the Superintending Engineer on 04.04.2019 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 1st May, 2019
v v

