

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.16692 of 2015

AND

WRIT PETITION No.9963 of 2018

COMMON ORDER:

These two writ petitions are being disposed of by way of common order, as the issue involved in these two writ petitions is one and the same and the petitioner is also same.

W.P.No.16692 of 2015 is filed seeking a writ of Certiorari, calling for the records relating to and connected with the proceedings dated 29.03.2014 of the 3rd respondent and to quash the same holding it as illegal, arbitrary, unconstitutional and mala fide.

W.P.No.9963 of 2018 is filed seeking a writ of Mandamus, declaring the inaction of the 2nd respondent in considering the petitioner's representations dated 23.05.2015 and 28.02.2018 for appointment as Junior Plant Attendant at Nizamabad-Pochampad/Nizamsagar Project as illegal, arbitrary and unconstitutional and sought a consequential direction to the 2nd respondent to forthwith appoint the petitioner as Junior Plant Attendant in Nizamabad-Pochampad/Nizamsagar Project.

Heard the learned counsel for the parties.

It has been contended by the petitioner that he had acquired ITI Electrician (EEE) Diploma and that since 2011, he has been working as Sub-Engineer/Electrical, on contract basis, at Kakatiya Thermal Power Project (KTPP) of Genco in Warangal District. While so, the respondents have issued a notification on 05.01.2011 calling for applications for the post of Junior Plant Attendant. In all, 1086 vacancies of Junior Plant Attendant were notified. The petitioner had responded to the said notification and, at the time of filling up of online application, the petitioner had

inadvertently stated “No” against the column “Are you working with APGENCO”. The petitioner had further submitted that as per the selection procedure, out of total 100 marks, 30 marks were allocated against marks obtained in the qualifying examination of ITI and weightage upto 10 marks would be given for having passed the qualifying examination of ITI before the date of notification @ 2 marks for each completed year of passing and service weightage of 10 marks for those who worked for more than 6 months and 5 marks for those who worked for less than 6 months. The petitioner has later realized that while filling up the online application, mistakenly he has not claimed any service weightage. Thereafter, the petitioner has submitted a representation on 06.11.2013 to consider his case for grant of service weightage marks. When the said representation was not considered, the petitioner has filed W.P.No.3413 of 2014 and the said writ petition was disposed of on 07.02.2014 with a direction to the 1st respondent therein to consider the representation dated 06.11.2013 submitted by the petitioner and pass appropriate orders as per law, as expeditiously as possible, preferably within a period of four weeks. In pursuance thereof, the respondents have considered the said representation and rejected the case of the petitioner vide impugned proceedings dated 29.03.2014, wherein it is stated that the petitioner has secured total 51.63 marks, whereas the cut-off marks for BC-B under local quota in KTPP is 71.29 marks, and the cut-off marks for BC-B under non-local is 78.29 marks.

Learned counsel for the petitioner had contended that the petitioner belongs to BC-B and the cut-off marks for local and non-local candidates under BC-B category i.e., 71.29 marks and 78.29 marks respectively, which are shown in the rejection order, are with respect to KTPP, whereas the

cut-off marks fixed by the respondents in respect of Nizamabad-Pochampad/Nizamsagar Project is 53.17 and the petitioner has secured 51.63 marks. Learned counsel also submitted that since the petitioner has worked on contract basis for more than six months, he would be entitled for 10 marks towards service weightage, thereby the total marks of the petitioner would become 61.63 marks, as such, sought a direction that '10' marks towards service weightage be added to the petitioner and consider his case for appointment to the post of Junior Plant Attendant. Learned counsel for the petitioner, therefore, submits that appropriate orders be passed in the writ petition directing the respondents to award '10' marks of service weightage to the petitioner by duly considering his representation and then consider his case for appointment to the post of Junior Plant Attendant.

Learned Standing Counsel appearing for the respondents had submitted that the petitioner has not enclosed the service weightage documents and even in the online application, the petitioner has not claimed any service weightage and, as per the recruitment notification, for claiming service weightage i.e., experience marks, one must submit Gate Pass/Annual Accounts Slip of EPF i.e., minimum one Gate Pass for the candidates who are claiming as Contract Labour to the proof of working for less than 6 months and a minimum of 7 Gate Passes or Annual Accounts Slips of EPF for the candidates claiming to have worked as Contract Labour for more than 6 months. Learned Standing Counsel further submitted that in the instant case, the petitioner has not filed any Gate Passes for claiming service weightage, therefore, the question of granting '10' marks towards service weightage to the petitioner does not arise. Learned Standing Counsel also submitted that the petitioner has not filed any documents to

prove that he has worked as Contract Labour with the respondents, hence, the case of the petitioner was rightly rejected. Learned Standing Counsel also submitted that even with regard to Nizamabad-Pochampad Project is concerned, the cut-off marks fixed by the respondents were 53.17, whereas the petitioner could secure only 51.63 marks and even as per his own averment, the petitioner has secured less than 53.17 marks and hence, the question of considering the case of the petitioner for appointment as Junior Plan Attendant would not arise; and hence, there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for both parties, is of the considered view that the petitioner has not claimed any service weightage while uploading the online application and, even thereafter, the petitioner has not produced any Gate Pass or Annual Account Slip of EPF. To claim '5' marks towards service weightage, one must produce at least one Gate Pass/Annual Account Slip of EPF to the proof of working as Contract Labour for less than 6 months and that, in respect of candidates for claiming service weightage of '10' marks, they are supposed to file seven Gate Passes or Annual Account Slips of EPF. In the present case, the petitioner has not filed even single Gate Pass along with the writ petition so as to claim service weightage, which itself would demonstrate that the petitioner has not worked with the respondents on contract basis. Therefore, the respondents have rightly rejected the case of the petitioner for appointment to the post of Junior Plant Attendant, as the petitioner was not coming within the zone of merit. So far as the relief sought for in W.P.No.9963 of 2018 filed for consideration of petitioner's case at least in respect of Nizamabad-Pochampad Project, is concerned, when once the

petitioner is not entitled for service weightage and admittedly the petitioner has secured only 51.63 marks, he is not entitled for consideration even in respect of Nizamabad-Pochampad Project also, as the cut-off mark fixed by the respondents in respect of Nizamabad-Pochampad Project is 53.17. Thus, both the writ petitions are devoid of merits and they are liable to be dismissed.

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

Pending miscellaneous petitions, if any, shall stand closed.

28th June 2019
v v

ABHINAND KUMAR SHAVILI, J

