

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.41621 of 2015

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not considering his case for promotion to the post of Superintendent under 50% seniority quota as per the order dated 20.08.2013 passed by this Court in W.P.No.15848 of 2003 as confirmed in W.A.No.2027 of 2013 and SLP.No.16513 of 2015, as illegal and arbitrary, and consequently, direct the respondents to consider his case for promotion to the post of Superintendent under 50% seniority quota as per the order dated 20.08.2013 passed by this Court in W.P.No.15848 of 2003.

Heard Mr.D.Linga Rao, learned counsel for the petitioner and Mr.Ch.Jagannatha Rao, learned Standing Counsel for respondents.

It has been contended by the petitioner that he is working as a Stenographer, Grade-II, and he is fully eligible and qualified to be promoted to the post of Superintendent. As per the promotion policy of the respondent University, the post of Superintendent is liable to be filled up (1) 50% by promotion from among eligible UDCs on the basis of seniority-cum-efficiency, provided they are graduates and have put in 5 years of service in the cadre of UDCs and (2) by way of written test from among the eligible UDCs and other similarly situated grades in the University who have put in at least five years of service with PUC as qualification. The petitioner submits that the respondents are selecting the candidates by way of written test from among the eligible UDCs, but they are not considering the case of the petitioner for promotion to the post of

Superintendent under 50% promotional quota on the ground that Stenographer, Grade-II, is not one of the similar grades as set out in the promotional policy in respect of 50% promotion quota.

Learned counsel for the petitioner submits that when the names of Store Keepers were not included in the promotion quota and that only UDCs, who have put in five years of service, are eligible and not the Store Keepers, Grade-II, the Store Keepers, Grade-II, working in the University have filed W.P.No.15848 of 2003 and this Court was pleased to allow the said writ petition on 20.08.2013 holding that Store Keepers, Grade-II, are also eligible for promotion for the post of Superintendent. Aggrieved thereby, the respondent University carried the matter by filing W.A.No.2027 of 2013 and a Division Bench of this Court dismissed the said appeal on 16.06.2014, confirming the order passed by the learned Single Judge of this Court. Further aggrieved thereby, the respondent University filed SLP.No.16513 of 2015 before the Hon'ble Supreme Court and the Hon'ble Supreme Court also dismissed the said SLP vide order dated 11.09.2015. Therefore, the learned counsel submits that the petitioner herein is also similarly situated to that of the petitioners in W.P.No.15848 of 2003 and the case of the petitioner also deserves to be considered against promotion quota. Therefore, the learned counsel submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for promotion to the post of Superintendent under promotion quota.

Learned counsel for the petitioner further submits that the petitioner had retired from service on attaining the age of

superannuation during pendency of this writ petition and the case of the petitioner has to be considered for promotion to the post of Superintendent under promotion quota notionally. Therefore, appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for promotion to the post of Superintendent under promotion quota notionally and if the case of the petitioner is considered for promotion to the post of Superintendent, then let the respondents extend the said benefits of promotion with all consequential benefits.

The learned Standing Counsel appearing for the respondents has contended that as per the promotion policy of the respondents only UDCs are eligible for promotion as against 50% promotion quota and not the Stenographers, Grade-II and Stenographers, Grade-II and other similar grades are eligible for promotion to the post of Superintendent in the remaining 50% quota meant for written test and if the similar grades to that of UDCs are eligible, they must appear for the written test in tune with the promotion policy and then only, their cases can be considered for promotion to the post of Superintendent. Since the petitioner is not working as UDC, the case of the petitioner cannot be considered for promotion to the post of Superintendent under 50% quota meant for eligible UDCs.

He further submits insofar as the judgment relied upon by the petitioner in W.P.No.15848 of 2003 dated 20.08.2013, it pertains to Store Keepers, Grade-II, but not Stenographers Grade-II and therefore, the said judgment has no application to the case on

hand. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the petitioner is entitled for promotion to the post of Superintendent under written test quota, however, by adopting the analogy of this Court in W.P.No.15848 of 2003, this Court has taken note of the fact that as per the promotion policy in respect of Superintendent is concerned, in respect of 50% of the posts of Superintendents, which are liable to be filled up by way of written test, the UDC and other similar grades are made eligible and while in promotion quota, only the UDCs alone are being considered. So, this Court in the above said writ petition observed that similar grades to that of UDCs were not reflected in the promotion quota and this Court felt that such an omission of other similar grades from the promotion quota was an arbitrary exercise and this Court directed to include other similar grades even in the matters of promotion quota for the post of Superintendent. Therefore, this Court is of the considered view that Stenographer, Grade-II, is also akin to UDC post, which falls under other similar grades, and hence the case of the petitioner has also to be considered under promotion quota by following the dicta laid down by this Court in W.P.No.15848 of 2003 dated 20.08.2013, which was confirmed by the Division Bench of this Court in W.A.No.2027 of 2013 and also by the Hon'ble Supreme Court in SLP.No.16513 of 2015.

Therefore, the writ petition is allowed directing the respondents to consider the case of the petitioner for promotion to

the post of Superintendent under promotion quota and since the petitioner has retired from service, the case of the petitioner has to be considered notionally under promotion quota and if the petitioner is promoted as Superintendent, then all the notional benefits, to which the petitioner is entitled to, should be extended to the petitioner with all consequential benefits within a period of eight weeks from the date of receipt of a copy of this order.

The respondents are further directed to consider the case of the petitioner under promotion quota by duly incorporating the name of the petitioner at appropriate place in the seniority list. However, upon such placing the petitioner in the said seniority list under promotion quota, if the petitioner comes within the zone of consideration, then the case of the petitioner has to be considered and the petitioner should be promoted to the next higher post of Superintendent in accordance with law. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

12-09-2019
Prv