

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13908 of 2019

ORDER:

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

2. The writ petition is filed with the following prayer:

"... the Hon'ble Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus direct the respondents to consider and appoint the petitioner in a post of CJLM/Office Subordinate having regard to the disability of petitioner by granting exemption from pole climbing as per the proceedings i.e., Lr.No. SE/OP/MBNR/PO/Adm.C2/D.No.516/11 dated 23-07-2011 and Lr.No.SE/OP/MBNR/PO/Adm.C2/D.No.123/19 dated 09-01-2019 of the 4th respondent by declaring the action of the 4th respondent in issuing the letter No.SE/OP/MBNR/PO/Adm.C2/D.No.125/19, dated 09-01-2019 in rejecting case of the petitioner is illegal improper arbitrary violative of Article 14 of the Constitution of India besides being opposed the Principles of Natural Justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. Heard Mr. K. Chaitanya, learned counsel for the petitioner and Mr. R. Vinod Reddy, learned standing counsel for the respondents.

4. Petitioner contends that he is fully eligible and qualified to be appointed as Office Subordinate. He was appointed as contract labourer with the respondents in 2007 and since then he had been discharging his duties to the satisfaction of the superiors and everyone concerned. He submits that while discharging duty in the HG Fuse Off Call office, he fell down from the pole while attending to work and suffered severe injuries. In those set of circumstances, the Superintending Engineer (Operations), had addressed a letter to the Chief General Manager on 23.07.2011 recommending the case of the petitioner for appointment to the post of Office Subordinate.

Thereafter, the petitioner was discontinued from service and the recommendation made by the Superintending Engineer was not considered. The petitioner had earlier filed WP.No.23913 of 2007 before this Court seeking a direction to the respondents to consider his case for appointment to the post of Junior Line Man and the said writ petition was disposed of vide order dated 27.09.2018 directing the respondent to conduct pole climbing test and if the petitioner is qualified, directed the respondents to consider the candidature of the petitioner for the post of Junior Line Man in the vacant post. Thereafter, the respondents had considered the case of the petitioner in terms of the orders passed by this Court and rejected the case of the petitioner vide order dated 09.01.2019. Petitioner submits that since the petitioner has suffered an electrical accident, while discharging duty, he was not in a position to climb the pole. Therefore, the action of the respondents in conducting pole climbing test on 08.01.2019, in spite of the aforementioned facts, is an arbitrary exercise of power and the respondents ought to have considered the case of the petitioner for appointment to the post of Office Subordinate in terms of the recommendation made by the Superintending Engineer vide proceedings dated 23.07.2011.

5. Therefore, the counsel for the petitioner would submit that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for appointment to the post of Office Subordinate by duly taking into account the recommendation made by the Superintending Engineer on 23.07.2011 and pass appropriate orders in accordance with law.

6. Learned standing counsel for the respondents would submit that the case of the petitioner was considered in terms of the order passed by this Court in WP.No.23913 of 2007 dated 27.09.2018 and since the

petitioner could not climb the pole, his case was rejected vide order dated 09.01.2019. Hence, there are no merits in the writ petition and it is liable to be dismissed.

7. This Court, having considered the rival submissions made by both parties and since the petitioner suffered an electrical accident, while discharging duty and could not climb the pole in the test conducted on 08.01.2019, is of the view that the writ petition can be disposed of directing the respondents to consider the case of the petitioner for appointment to the post of Office Subordinate by duly taking into account the recommendation made by the Superintending Engineer vide letter dated 23.07.2011 and pass appropriate orders within a period of eight (8) weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

July 15, 2019
DSK

ABHINAND KUMAR SHAVILI, J