

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.16084 of 2018

ORDER:

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

This writ petition is filed seeking the following relief:

“...to issue an order or direction, more particularly one in the nature of Writ of Mandamus, call for the records relating to and connected with the impugned orders issued in memo No. SE/QC&IC/KCC/WGL.U/ES.II/468 dt.03.08.2017 of the 3rd respondent and declared by holding it as illegal, arbitrary, unjust, unfair and violation of constitutional provisions and consequently direct the respondents to consider the case of petitioner for appointment by transfer to the post of Junior Assistant, as was done in case of other similarly situated persons with all consequential benefits and pass such other order or orders as deem fit and proper.”

Heard Sri C. Sai Reddy, counsel for the petitioner, and Government Pleader appearing for the respondents.

It is contended by the petitioner that he was initially appointed as Office Subordinate on 21.06.2007 on compassionate grounds, though he has acquired B.Com degree qualification, and he is fully eligible and qualified for promotion to the post of Junior Assistant. The petitioner further submitted that his case for promotion to the post of Junior Assistant was not considered even though vacancies were available in the panel year 2010-11.

Counsel for the petitioner submitted that when the case of the petitioner was not considered for promotion to the post of Junior Assistant, the petitioner has filed O.A.No.526 of 2013 and the Administrative Tribunal was pleased to pass interim orders in the said O.A on 29.01.2013 directing the respondents to consider the representation of the petitioner dated 22.06.2012 for promotion to the post of Junior Assistant, if he is qualified and otherwise eligible as per the seniority list published on 31.10.2012, and pass appropriate orders. The counsel further submitted that later on the said O.A was transferred to this Court and the same was numbered as WP (TR) No.219 of 2017. It is also submitted that the respondents have filed the counter in the said writ petition contending that consequent to the interim orders dated 29.01.2013, the Superintending Engineer issued an order on 05.03.2013 informing the petitioner that there were 10 more seniors to him and his request for promotion would be considered at appropriate time as per his seniority and eligibility. It is further submitted that in view of the said submissions made by the respondents in the counter affidavit, this Court disposed of the said WP (TR) No.219 of 2017 on 29.06.2017 observing that no further orders are required.

The grievance of the petitioner is that there are vacancies of Junior Assistant and all his seniors have been promoted as Junior Assistants, but in spite of the same, the respondents are not considering his case for promotion to the post of Junior Assistant.

Counsel for the petitioner further submitted that after disposal of the said WP (TR) No.219 of 2017, the respondents have issued a memo dated 03.08.2017 reiterating that the case of the petitioner would be considered as and when his turn comes as per the seniority. Counsel further submitted that except contending that the case of the petitioner would be considered as and when his turn comes as per the seniority, the respondents are not considering the case of the petitioner. Therefore, the counsel submitted 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 Junior Assistant in any of the existing vacancies in accordance with law.

Government Pleader appearing for the respondents contended that if there are vacant posts of Junior Assistant and if the respondents take a decision to fill up the said vacant posts, the case of the petitioner would be considered and appropriate orders would be passed 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 case of the petitioner for promotion (appointment by transfer) to the post of Junior Assistant, as and when the respondents take a decision to fill up the vacant posts of Junior Assistant in accordance with law.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

16.10.2019

v v

