

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.16807 of 2019

ORDER:

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

This writ petition is filed seeking the following relief :-

“.....to issue a writ or direction particularly one in the nature of Writ of Mandamus to set aside the clarification given by 2nd respondent in Lr.Rc.No.F2/ 1206/ 2019 dated 20.06.2019 and the impugned order of the 3rd respondent in Rc.No. B1/ 365/ 2019 dated 26.07.2019 by declaring them as arbitrary, vindictive illegal and violation of Articles 14, 16 and 21 of the Constitution of India and also contrary to the Amendment to Rule 5 of the A.P.Social Welfare Subordinate Service Rules vide G.O.Ms.No.20 Social Welfare (SE.SER.1.3) Department dated 28.02.2004 and direct the respondents to consider the claim of the petitioners for promotion to the post of Hostel Welfare Officer Grade-I without insisting on B.Ed qualification as no B.Ed qualification is stipulated for promotion as Hostel Welfare Officer Grade-I from Hostel Welfare Officer Grade-II and the B.Ed qualification is stipulated only to direct recruitment to the post of Hostel Welfare Officer Grade-II but not for promotion to the post of Hostel Welfare Officer Grade-II from Class-IV Employees as per the amendment by G.O.Ms.No.20 Social Welfare (SW.SER.1.3) Department dated 28.02.2004 to Rule-5 of the Special Rules issued in G.O.Ms.No.189 Social Welfare (A) Department dated 31.12.1997 by preparing year-wise panel for promotion to the post of Hostel Welfare Officer Grade-I as mandated under Rules 5 and 6 of State and Subordinate Service Rules.....”

Heard Sri C.Sinivasa Baba, learned counsel for the petitioners and the learned Government Pleader for Services-II.

It has been contended by the petitioners that they are working as Hostel Welfare Officer Grade-II and they are fully qualified and eligible to be promoted for the post of Hostel Welfare

Officer Grade-I, but the respondents rejected their cases for promotion vide proceedings dated 26.07.2019 on the ground that they did not possess B.Ed qualification. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioners contended that Rule 5 was amended in G.O.Ms.No.20 dated 28.02.2004, wherein the requirement of possessing B.Ed qualification for promotion has been deleted, but the respondents have considered the cases of the petitioners in terms of old Rule, but not the amended Rule. Therefore, the impugned order is liable to be set aside and the respondents be directed to consider the cases of petitioners for promotion to the post of Hostel Welfare Officer Grade-I without insisting for B.Ed qualification.

Learned Government Pleader appearing for the respondents has contended that the respondents would consider the cases of petitioners in terms of amended Rule in G.O.Ms.No.20 dated 28.02.2004 and pass appropriate orders in accordance with law. Since the respondents have rejected the cases of petitioners without taking into account the amended Rule, appropriate orders be passed directing the respondents to reconsider the cases of petitioners in accordance with the amended Rule.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the respondents have rejected the cases of petitioners for promotion to the post of Hostel Welfare Officer Grade-I by applying the old Rule and since Rule 5 is amended vide G.O.Ms.No.20 dated 28.02.2004, the impugned order is liable to be set aside and it is

accordingly set aside. The respondents are directed to reconsider the cases of petitioners for promotion to the post of Hostel Welfare Office Grade-I by duly taking into account the amended Rule in G.O.Ms.No.20 dated 28.02.2004 and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

14-11-2019
Prv

