

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10572 of 2012

ORDER:

This writ petition is filed seeking a writ of mandamus declaring the action of the respondents in not considering the case of the petitioners for appointment as Sub-Staff (Peon) pursuant to the employment notice, dated 17.07.1996, in the vacancies that arose on account of non-joining/disqualification/leaving the corporation as arbitrary, illegal, unjust, unconstitutional, violative of principles of natural justice and contrary to Articles 14, 16, 19 and 21 of the Constitution of India and sought a consequential direction to direct the respondents to consider the case of the petitioners for appointment to the post of Sub-Staff (Peon) in the vacancies caused on the account of non-joining/disqualification/leaving the corporation, in the interests of justice.

Heard Sri A. Venkataramana, learned counsel for the petitioners and Sri B.Raj Kiran, learned Standing Counsel for respondents.

It has been contended by the petitioners that they are all educated and unemployed youth and the respondent Corporation had issued a recruitment notification, dated 17.07.1996, for filling up of 400 vacancies of Sub-Staff (Peon). The petitioners have responded to the said notification and have participated in the selection process. The selection process comprised of written test followed by interview. The petitioners further contended that before finalization of selection

process, some of the temporary staff working with the respondent Corporation had filed W.P.Nos.29 of 1997 and 9431 of 1997 challenging the action of the respondent Corporation in notifying the vacancies without subjecting them for absorption. This Court had dismissed the said writ petitions vide orders, dated 29.12.1997. Thereafter, temporary employees have carried the matter in appeal by filing W.A.No.1091 of 1999 and a Division Bench of this Court was pleased to dispose of the said appeal, vide orders, dated 16.08.1999, directing the respondent Corporation to formulate a scheme for absorption of temporary employees. Thereafter, the matter was carried before the Hon'ble Supreme Court by the respondent Corporation by filing Civil Appeal No.2104 of 2000 and the Hon'ble Supreme Court was pleased to dispose of the said Civil Appeal on 22.11.2001, directing the respondent Corporation to regularize the services of temporary employees, in accordance with the scheme formulated in the order in **E.Prabhavathi's** case (SLP.Nos.10393-10413 of 1992), if not already considered. Later on, the persons, who have responded to the notification, dated 17.07.1996, have filed W.P.Nos.24249 of 1999, 1615, 3293, 4108 and 12261 of 2002 before this Court seeking a direction to declare the results of the written test and interview pursuant to the notification, dated 17.07.1996, and this Court was pleased to dispose of the writ petitions, vide orders, dated 20.12.2002 directing the respondents to declare the results of the written test and interview and later on, the respondent Corporation preferred an appeal by filing W.A.No.353 of 2003 and batch of cases

and the Division Bench of this Court was pleased to dismiss the appeals, by orders, dated 10.06.2003. Aggrieved by the same, the Corporation has preferred S.L.P.No.953-968 of 2005 before the Hon'ble Supreme Court and the Supreme Court, vide orders, dated 18.01.2011, issued the following directions:

“One time limited examination for those temporary persons who are working in LIC of India for more than five years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into LIC of India would be considered. For this purpose, LIC of India will hold a limited written examination which will be in the vernacular language with a limited syllabus which will be announced in advance.

5. The successful short listed candidates shall be called for the interview. Such of those persons who are successful in the interview shall be initially appointed and posted anywhere in the respective Zone.

6. Such of those temporary employees who do not apply and or not successful shall cease to be in the employment. It is clarified that those temporary persons who are not governed under these submissions, shall also cease to be in the employment.

7. Those who are recruited shall be governed by the rules as applicable to Class IV employees and they shall not be entitled to claim any other benefit regarding their past service rendered as temporary employees.

8. In so far as open market candidates who had appeared in the written test at the relevant time and who were successful in the same shall be called for interview along with temporary employees. Such of those persons who shall be successful in the interview shall be offered appointment and the conditions as applicable to temporary persons in so far as offer of

appointment shall be applicable to the open market persons as well.”

The petitioners further contended that only after disposal of the case by the Hon'ble Supreme Court, the respondents have finally filled up 193 posts in 2012 and among 193 posts, 33 posts remained unfilled, and subsequently, the respondent Corporation has filled up another 200 posts, and in the second recruitment also 17 posts remained unfilled, thus, in all, 50 posts are lying vacant. The petitioners contended that they are the next meritorious candidates and the respondents must consider their cases against the 50 non-joined vacant posts. Therefore, learned counsel for the petitioners submits that appropriate orders be passed in the writ petition directing the respondent Corporation to consider the case of the petitioners for appointment to the post of Sub-Staff (Peon) in 50 non-joined vacancies in pursuance to the notification, dated 17.07.1996.

On the other hand, learned Standing Counsel for the respondents had contended that the petitioners are not coming within the zone of consideration and 400 candidates were employed and that is the reason why the respondent Corporation has not considered the case of the petitioners. He further contended that if the petitioners are the next meritorious candidates and submits a representation, the respondent Corporation will consider the case of the petitioners and appropriate orders will be passed on the representation in accordance with law. Learned Standing Counsel has informed that there are only 50 posts consequent upon non-joining of selected candidates.

Having regard to the rival submissions made by the parties, this Court is of the considered view that this Writ Petition can be disposed of directing the petitioners to submit a fresh representation to the respondents within two weeks from the date of receipt of a copy of this order, and upon such representation being received, the respondent Corporation shall consider the case of the petitioners for appointment in the non-joined posts, if they are the next meritorious candidates in the merit list, and pass appropriate orders in eight weeks thereafter. It is needless to say that the respondent Corporation shall consider the case of the petitioners only against the 50 vacancies of non-joined posts.

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

Miscellaneous petitions pending, if any, shall stand closed.

18th July 2019

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ABHINAND KUMAR SHAVILI, J