

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.39894 of 2016

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not apportioning the vacancies of Junior Lecturers in different subjects (disciplines) for the panel year 2015-16 among the candidates belonging to different sources of recruitment, as illegal, arbitrary and is contrary to G.O.Ms.No.223, dated 18.09.2008 and further declare the action of respondents in seeking to apportion the vacancies for the panel year 2015-16 by working out the number of vacancies based on cadre strength, as illegal and arbitrary and opposed to the policy and procedure adopted during the earlier years.

2. Heard Sri M. Srinivasa Rao, counsel for petitioners and G.P. for Higher Education and G.P. for Services-II, for respondents.

3. It has been contended by the petitioners that they are working as Senior Assistant/Junior Assistant/Typist and are fully eligible and qualified to be appointed to the post of Junior Lecturer as they possess the requisite qualifications. The petitioners further submit that as per Recruitment Rules issued vide G.O.Ms.No.303, dated 30.12.1993, the post of Junior Lecturer figures in Category-8 of the Rules and the said post is to be filled up; (i) By direct recruitment; (ii) By transfer from School Assistants etc.; and (iii) By transfer from any other service. The Rule further provides for percentage of vacancies that can be

filled-up from each source i.e. 15% by way of direct recruitment, 40% by transfer from School Assistants etc., and 10% from any other service in Education Department (Non-teaching staff of Education Department). The petitioners further submit that the method of appointment was later amended vide G.O.Ms.No.223, dated 18.09.2008 and it was further amended vide G.O.Ms.No.253, dated 30.10.2008. After the above amendments, the vacancies of Junior Assistant are to be filled-up by direct recruitment and by recruitment by transfer of – (a) Superintendents in the Department of Intermediate Education and Collegiate Education as per seniority to the extent of 3% of vacancies; (b) Senior Assistants and Senior Stenos in the Department of Intermediate Education and Collegiate Education as per seniority to the extent of 3% of the vacancies and (c) Junior Assistants, Typists, Junior Stenos and Store Keepers in the Department of Intermediate Education and Collegiate Education to the extent of 4%. The petitioners contend that as per the said amendments, earlier, the respondents were filling-up the vacancies of Junior Assistant by working out the percentages based on number of vacancies, but not the cadre strength. The petitioners contend that the percentages earmarked should be calculated depending on the number of vacancies, but the respondents are calculating the percentages based on the cadre strength, thereby, depriving the benefit of percentages earmarked for ministerial staff to get appointed as Junior Lecturers by way of recruitment by transfer. Therefore, learned counsel for petitioners contend that appropriate orders be passed in the

writ petition directing the respondents to calculate the percentages earmarked for each recruitment method based on the number of vacancies, but not basing on the cadre strength and fill-up the vacancies accordingly.

4. The learned Government Pleaders appearing for respondents contend that whenever percentages are given in the recruitment Rules, it should be understood that such percentages should be applied to the total cadre strength but not to the number of vacancies to be filled-up. It is submitted that in the Recruitment Rules, each source of recruitment is given a certain percentage and this percentage has to be calculated based on the total cadre strength of Junior Lecturer, but it cannot be based on the number of vacancies. Therefore, it is submitted that there are no merits in the writ petition and the same is liable to be dismissed.

5. This Court, having considered the rival submissions made by the parties, is of the considered view that when the Recruitment Rules provide for filling-up of certain percentage of vacancies by each method of recruitment, it is to be understood that those percentages are provided based on the total cadre strength of particular post, but such percentages cannot be applied based on the number of vacancies to be filled-up. If the analogy of petitioners is to be accepted, there would be a circumstance where more number of candidates would be recruited than the percentage earmarked for that particular recruitment

source. That is not the objective with which particular percentages are provided in the Recruitment Rules for each method of recruitment.

6. This Court, at the time of hearing, has asked the learned counsel for petitioners as to whether there is any precedent to that effect in any other Department, but the learned Counsel could not get any precedent as to how the percentages are to be calculated, whether it should be based on number of vacancies or total cadre strength. Counsel for petitioners has relied upon the method adopted by the respondents earlier. If the respondents have followed the percentages based on the vacancies on earlier occasions contrary to the recruitment Rules, the same illegality cannot be allowed to be continued. As the respondents have rightly calculated the percentages earmarked for each recruitment source based on the cadre strength, the same cannot be said to be arbitrary or illegal. Therefore, this Court is not inclined to interfere in the matter.

7. For the aforesaid reasons, there are no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

28th June, 2019

ajr