

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION Nos.28099 and 32404 of 2018

COMMON ORDER:

As the issue raised in these writ petitions is one and the same, they are disposed of by way of a common order.

The petitioners are challenging the action of respondents in not considering their cases for absorption as Home Guards in the Home Department as per the instructions issued in G.O.Ms.No.35 dated 03.03.2017.

The petitioners submit that they are all erstwhile Firemen and the State Government has taken a policy decision in G.O.Ms.No.20 dated 20.02.2016 to absorb 117 employees working in the Fire Outposts against existing 117 Home Guard vacancies and to accommodate remaining 139 employees by creating equal number of Home Guard posts. Thereafter, vide G.O.Ms.No.35, dated 03.03.2017, the number of posts of Home Guards meant for Fire Outposts were increased to 256. The petitioners further submitted that in pursuance of the above decision of the State Government, 246 Ex-Firemen were absorbed as Home Guards and the names of the petitioners were recommended in the second list consisting of ten members i.e., balance of unfilled vacancies created in pursuance of the above said G.Os. The respondents have not considered their

cases only on the ground that the names of petitioners are reflected in the second list. The respondents are under erroneous premise that there are only 246 posts of Home Guards and as such they are not considering the cases of petitioners.

Learned counsel appearing for the petitioners contended that as per G.O.Ms.No.35, dated 03.03.2017, 256 posts of Home Guards were created and the respondents have filled up only 246 posts of Home Guards and there are ten unfilled vacancies of Home Guards, which can be filled up with the petitioners. Therefore, the learned counsel for petitioners contends that the petitioners are entitled for absorption as Home Guards in tune with the policy of the State Government and, as such, appropriate orders be passed in the writ petitions directing the respondents to consider the cases of the petitioners for absorption as Home Guards in terms of G.O.Ms.No.20, dated 20.02.2016 and G.O.Ms.No.35, dated 03.03.2017.

Learned Government Pleader appearing for the respondents contended that since 246 posts were already filled up and the names of the petitioners were reflected in the second list and as there was a delay in forwarding the second list, the cases of the petitioners could not be considered and that the petitioners have no legal right to claim absorption as Home

Guards and there are no merits and the writ petitions are liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the State Government has created 256 posts vide G.O.Ms.No.35 dated 03.03.2017 and the petitioners, who are forming part of 256 Firemen, are entitled for absorption as Home Guards. Therefore, the respondents ought to have considered the cases of petitioners for absorption as Home Guards.

Since the State Government has created the vacancies of Home Guards to accommodate Firemen and since the petitioners' names were included in the original 256 posts, wherein the State Government has taken a policy decision to accommodate Ex-firemen numbering to 256 to be absorbed in the newly created vacancies of Home Guards, the respondents cannot deny the absorption in favour of the petitioners.

This Court is of the view that 256 posts were created by the State Government vide G.O.Ms.No.35 dated 03.03.2017 and the State Government was conscious of the fact that 256 ex-firemen were working and a policy decision was taken to absorb all Ex-firemen as Home Guards. Therefore, when the State Government has taken a policy decision to absorb all 256 Ex-firemen as Home Guards, the petitioners' cases also deserve to

be considered for absorption as Home Guards. Therefore, the respondents are directed to consider the cases of petitioners for absorption as Home Guards in terms of G.O.Ms.No.35 dated 03.03.2017 and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

With the above observations, the writ petitions are allowed.
No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Date: 28-02-2019
Prv

ABHINAND KUMAR SHAVIL, J



