

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.32158 OF 2018

ORDER:

Heard Sri K.Rama Subba Rao, learned counsel for the petitioner and Sri R.Vinod Reddy, learned Standing counsel for respondents.

This writ petition is filed seeking the following relief :-

“.....to declare the action of the 2nd Respondent in not filling up the total vacancies notified i.e., 28 including that of Vacancy meant for BC-D in Nalgonda District, as illegal, arbitrary, contrary to notification and also violative of Article 14 & 16 of the Constitution of India by issuing appropriate writ, order or direction more particularly in the nature of Mandamus and consequently direct the Respondent to consider the case of the petitioner for appointment as Sub-Engineer (Electrical), BC-D Roster point in Nalgonda District in accordance with his merit by operating the merit list downwards in pursuance of the notification No.01/2016 till the posts notified are filled up forthwith and to pass such.....”

It has been contended by the petitioner that respondents have issued notification No.01/2016 for filling up the post of Sub-Engineer (Electrical) and he responded to the said notification as he is fully eligible and qualified to be appointed as Sub-Engineer (Electrical). The petitioner further contends that he belongs to BC-D category and after undergoing regular selection process, he was declared to have secured 129th rank in the merit list. The petitioner further contends that the persons who have secured more merit in BC-D category got appointed under open competition and some of the candidates who have secured more merit than the petitioner have not attended for certificate verification; and that as he is next meritorious candidate, the

respondents ought to have considered his case in the unfilled vacancies by following the merit list downwards till the vacancies in BC-D category are filled up. Challenging the action of the respondents in not filling up the vacancies notified under BC-D category, the present writ petition is filed.

Learned counsel for the petitioner contends that appropriate orders be passed in this writ petition directing the respondents to consider the case of the petitioner for appointment to the post of Sub-Registrar (Electrical) by duly taking into account the merit of the petitioner and also consider the case of the petitioner in the unfilled vacancy pursuant to the notification. He further contends that though these facts were admitted by respondents in the counter, for the reasons best known to them, the respondents have not filled up the vacancies which were notified in the notification.

Learned Standing counsel appearing for the respondents had contended that as per G.O.Ms.No.81, dated 22.02.1997 which was adopted by APSEB vide B.P.Ms.No.100, dated 28.07.1997, the respondents will not follow the waiting list and relinquish posts and non-joining posts will be notified in the subsequent notification and therefore, the case of the petitioner cannot be considered. He further contends that there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties, is of the considered view that the fact that the petitioner has secured 129th rank and the petitioner is the next meritorious candidate to be

appointed under BC-D category was admitted by the respondents in the counter and in the counter it is also stated that there are 6 unfilled vacancies. The contention of the learned Standing counsel that the relinquish posts and non-joining posts will be notified in the next recruitment notification as per B.P.Ms.No.100, dated 28.07.1997 is concerned, there are 6 unfilled and non-joining posts and the said posts are not filled up by the respondent. Therefore, this writ petition is allowed directing the respondents to consider the case of the petitioner for appointment to the post of Sub-Engineer (Electrical) in the unfilled vacancy. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 24-12-2019
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