

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.36685, 36912, 36908,
36906 and 36696 OF 2018

COMMON ORDER

With the consent of the learned counsel on either side, all these writ petitions, which involve common issue, are being disposed of at the stage of admission, by passing common order.

The petitioners in these writ petitions are claiming to be working in Kothagudem Thermal Power Station and Kakateya Thermal Power Project as Contract Labour. In pursuance of the settlement arrived at between the trade union and the Telangana State Power Generation Corporation (for short 'the Corporation') under Section 12(1) of the Industrial Disputes Act, 1947, the Corporation agreed to absorb/regularize the outsourced personnel, who were working as on 04.12.2016, and issued guidelines *vide* T.G.O.O.No.98/CGM(HR)/2017 dated 01.06.2017. When the case of some of the unskilled labour was not considered for absorption/regularization, in terms of the above said guidelines, they filed W.P.No.20840 of 2017 and batch, and a Division Bench of this Court, by common order dated 03.10.2018 directed the respondents herein to undertake the process of absorption by considering the eligible

candidates, who were working as on 04.12.2016 and complying with other conditions of EPF deductions.

The grievance of the petitioners is that though they are working as on the cut-off date i.e., 04.12.2016, and fulfill the eligibility criterion as per the guidelines of the Corporation dated 01.06.2017, their cases have not been considered for absorption/regularization, and that similarly situated persons were absorbed *vide* T.G.O.O.217/CGM(HR)/2017, dated 29.07.2017. Hence, the petitioners seek a direction to the respondent-Corporation to consider their cases for absorption/regularization in terms of the guidelines issued by the Corporation dated 01.06.2017 and the judgment of the Division Bench of this Court, referred to above, and also on par with those employees regularized *vide* proceedings dated 29.07.2017.

Learned Standing Counsel appearing for the respondents, on instructions, would submit that if the petitioners fulfill the eligibility criteria, the Committee constituted in that behalf, would examine their cases and take appropriate decision.

A Division Bench of this Court by its orders in W.P.No.20840 of 2017 and batch, dated 03.10.2018, while

considering the very same issue, disposed of the writ petitions, with the following directions:

“12. Therefore in fine, all the writ petitions are disposed of to the following effect:

(i) Persons who claim that they fulfill the criteria laid down in the guide-lines/orders issued by the Corporation / Companies, may approach the Committee and satisfy the Committee that they are covered by the Scheme and that they fulfill the eligibility criteria. The Committee may look into the same and take a decision within 12 weeks;

(ii) persons who were not in employment on the cut-off date viz., 04.12.2016 cannot either seek the benefit of the scheme or challenge the scheme. The scheme prescribing a cut-off date is a product of settlement reached under the Industrial Disputes Act, 1947. The settlement was under Section 12(3) of the Act. Therefore, one of the conditions prescribed in the scheme viz., the cut-off date, cannot be challenged. Hence, the challenge to the prescription of a cut-off date contained in the scheme is rejected. However, these persons are given liberty to go before the Labour Court or any other appropriate Forum prescribed by any Special Enactments, if they have a right of absorption or regularization conferred by such Special Enactments;

(iii) persons who are out of the scheme on account of non-payment of contribution to the Employees Provident Fund, cannot also seek the benefit of the Scheme solely on the ground that the fault lay with the Distribution Companies. If these persons have any right conferred by any special enactment for regularization and/or absorption, they are given liberty to move the Fora prescribed under those enactments;

(iv) the claims of those engaged by the Civil Contractors for construction purposes are rejected.”

This Court, having considered the facts and circumstances of the case and the submissions of the learned counsel, and the above directions of the Division Bench,

without expressing any opinion on merits, dispose of the writ petitions at the stage of admission, directing the petitioners to make a representation to the Committee constituted for implementation of the scheme for absorption/regularization in terms of the guidelines issued by Telangana State Power Generation Corporation, represented by its Chairman and Managing Director *vide* T.G.O.O.No.98/CHM(HR)/2017 dated 01.06.2017, staking their claim along with necessary documents to demonstrate that they are working as on the cut-off date i.e., 04.12.2016 and fulfill the eligibility criteria, within a period of two weeks from the date of receipt of a copy of this order; and upon receipt of such representation, the Committee may look into the same and take a decision within a period of twelve weeks thereafter, as per the above directions of the Division Bench. No costs.

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

JUSTICE ABHINAND KUMAR SHAVILI

11th June, 2019

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