

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
WRIT PETITION NOS.29737, 37892 & 37921 OF 2018 AND 836
OF 2019

COMMON ORDER:

These writ petitions were earlier disposed of by common order dated 14.02.2019. Subsequently, pursuant to the judgment passed by a Division Bench of this Court in W.A.Nos.279, 277 and 275 of 2019, dated 08.04.2019, and the judgment in W.A.No.286 of 2019 dated 09.04.2019, these writ petitions are again heard and are being disposed of by this common order.

Heard Sri P. Amarender, learned counsel for the petitioners in W.P.Nos.29737, 37892 and 37921 of 2018; S. Rahul Reddy, learned counsel for the petitioners in W.P.No.836 of 2019; Sri D. Balakishan Rao, learned Standing Counsel for Telangana State Public Service Commission; learned Advocate General for the State and Sri Vedula Srinivas, learned counsel for the impleaded respondents in W.P.No.29737 of 2018.

All the petitioners have responded to the notification dated 14.04.2017 for the posts of Librarian (schools) in Residential Educational Institution Societies. In all, 256 posts of Librarian were notified in the Telangana Social Welfare Residential Educational Institutions Society and Mahatma Jothiba Phule Telangana Backward Classes Welfare Residential Educational Institutions Society. The petitioners submit that they have fared decently well in the selections and they were short-listed in the ratio of 1:2. The grievance of the

petitioners is that out of 256 posts of Librarian notified, 104 posts were notified in Zone V and 152 posts were notified in Zone VI.

So far as W.P.Nos.29737, 37892 and 37921 of 2018 are concerned, learned counsel for the petitioners had submitted that the respondents have prepared a common Merit List for both the Zones i.e., Zone-V and Zone-VI and contended that the action of the respondents in preparing a common Merit List for both the Zones is arbitrary. Learned counsel further stated that the respondents have prepared a defective select list by mixing up the candidates of Zone-V and Zone-VI and, as per the Presidential order, each Zone is a separate unit for the purpose of recruitment, therefore, preparing a common Merit List for two Zones is contrary to the Presidential order. It is further contended that some of the candidates who have secured less merit were included in open category and the candidates who have secured more merit were included in the reserved category and the respondents ought to have shown the meritorious reserved category candidates in open category and the less meritorious candidates should have been shown against reserved category.

Learned counsel further submitted that in respect of BC-B category in Zone-VI, out of total 8 posts notified for women, 3 posts were filled up in Open Category, instead of 2. It is also submitted that meritorious Backward Class women candidates should have been shown against open category and the resultant vacancies in the Backward Class should be offered to next meritorious BC candidates.

Learned counsel further submitted that the Public Service Commission has called for web options for selecting Zones, which is contrary to the Rules and Procedure in a single cadre post, and by resorting to web options, many candidates were eligible in the other Zones even though they were not entitled for consideration in the other Zones and for this glaring errors, the entire selection process vitiates and will have cascading effect on the entire selection process. On this ground, the learned counsel contended that the entire merit list be set aside and appropriate orders be passed in the writ petitions directing the respondents to prepare a separate list for each Zone.

Learned Advocate General appearing for the State had contended that Zone-wise merit lists have been prepared and every effort has been made to ensure that the Rules are strictly adhered to and, to demonstrate this, the learned Advocate General has pointed out the separate selected candidates lists of Zone-V and Zone-VI, which are filed at page No.10 of the material papers filed along with I.A.No.5 of 2018, and contended that the contention of the petitioners that a common Merit List has been prepared for both the Zones is totally incorrect.

This Court, after hearing the submissions of the parties, has specifically asked the learned counsel for the petitioners to give some illustrations as to how the respondents have violated the Rules in preparing the selected lists, but the learned counsel for the petitioners could not give any illustrations, except stating that BC-B Women

candidates have secured more marks than the candidates selected in the open category. This Court is of the view that Women reservation has to be applied horizontally, but not vertically. If the selected lists consist of required number of percentage for Women, then it should not be touched. Even in respect of other issues, learned counsel for the petitioners could not give any illustrations as to violation in preparing the selected lists. Therefore, this Court is not inclined to interfere in the matters relating to W.P.Nos.29737, 37892 and 37921 of 2018 and the same are accordingly dismissed.

So far as W.P.No.836 of 2019 is concerned, the petitioners are complaining that the respondents have not followed Rule 6(A) of the Telangana State Public Service Commission Rules (for short, 'the Rules'). Rule 6(A) of the Rules clearly mandates that the Service Commission should follow the procedure of giving relinquishment options to the candidates whose names find place in the selection list and if any of the candidate who is selected relinquishes for appointment to the post, then the same post should be offered to the next meritorious candidate. Since the respondents have not followed Rule 6-A of the Rules, the petitioners contend that appropriate orders be passed directing the respondents to follow Rule 6-A of the Rules.

Learned counsel for the petitioners in W.P.No.836 of 2019 had contended that the issue whether Rule 6-A of the Rules has to be followed by the Public Service Commission was adjudicated in W.P.Nos.20232 & 20273 of 2018 and this Court vide common order

dated 06.09.2018 directed the respondents to follow Rule 6-A of the Rules in respect of appointment to the post of TGTs (Science) and the same was also confirmed in W.A.Nos.1494 and 1524 of 2018, dated 22.11.2018.

Learned Advocate General had contended that since single category of posts of Librarian is notified in the impugned notification, the question of relinquishment and applicability of Rule 6-A of the Rules would not arise, as Rule 6-A of the Rules would be made applicable to a notification where multiple categories of posts are notified, so that if any of the candidate is selected simultaneously for 2 or 3 posts, then there is a chance of such candidate opting for one post, therefore, the respondents have rightly not extended the benefit of Rule 6-A of the Rules while preparing the select list.

Learned counsel appearing for the impleaded respondents had contended that since there was stay granted by this Court, some of the selected candidates approached this Court by filing implead petition and they are accordingly impleaded as respondents 4 to 135 in W.P.No.29737 of 2018. Learned counsel further contended that the impleaded respondents are willing to join the post, provided the Public Service Commission proceeds with the selection, and the question of relinquishing their claim for appointment at this stage does not arise and, to strengthen this argument, they have relied upon a judgment rendered by a Division Bench of this Court in W.A.Nos.1494 and 1524 of 2018, dated 22.11.2018, wherein while

confirming the orders passed by the learned Single Judge, the Division Bench held as follows:

“In consequence, we find no merit in these appeals warranting interference with the directions of the learned Judge. Needless to state, as respondents 8 to 119 who figured in the selection list of 264 candidates finally drawn up by the appellant-Commission have already indicated that they are not willing to relinquish their selection to the subject post, they need not be disturbed at this stage by again requiring the appellant Commission to make an enquiry with them. However, the appellant Commission shall strictly abide by the mandate of the aforestated Rule 6(A) and make an enquiry with the rest of the candidates who figured in the said selection list and, in the event any such candidates indicate their willingness to relinquish their selection as TGTs (Science), the appellant Commission shall remove his/her name in the selection list and include the name of the next candidate in terms of merit. Insofar as the directions of the learned Judge in para 18(iii) is concerned, we find no grounds to interfere with the same.”

Learned counsel for the impleaded respondents further contends that appropriate orders be passed in the writ petitions directing the respondents to proceed with the selections and let the Public Service Commission not apply Rule 6-A of the Rules in respect of impleaded respondents, as the impleaded respondents are willing to up the employment and not willing to relinquish their claim for appointment.

It would be important to note Rule 6(A) of the Rules, which reads as follows:

“Rule 6(A): Notwithstanding anything contained in adhoc

Rule issued in G.O.Ms.No.544, G.A.(Ser.A) Department, dated 04.12.1998, any candidate whose name has been included in a selection list in a direct recruitment prepared by the Commission, on enquiry by the Commission, may relinquish his claim for appointment in writing in the proforma prescribed by the Commission. The Commission shall thereupon remove the name of such candidates from the selection list and select any other candidate according to rules. The candidate whose name has been so removed from the selection list shall be informed of such removal by the Commission and shall have no right for the said appointment in future with reference to the said selection:

Provided this provision is applicable only when a single category of posts is notified in a notification and not applicable to a notification where multiple categories of posts are notified. However, it shall be ensured that the list shall not be operated for any additional vacancies indented by the Government Departments. The selection list for the purpose of selecting candidates in place of relinquished candidate/candidates shall be operated only till the next notification is issued or for a period of one year, whichever is earlier”.

A perusal of the above Rule would make it clear that the Public Service Commission must enquire from the candidates who are selected as to whether there are willing to relinquish their claim for appointment in writing in the proforma prescribed by the Commission and if any of the candidates relinquish their claim for appointment, the same should be filled up by the next meritorious candidate. So, the said Rule makes abundantly clear it has to be followed at the time of preparing the select list. The contention of the learned Advocate General that Rule 6-A of the Rules would be made applicable to a

notification where multiple categories of posts are notified, is not correct. This Court is of the considered view that the said contention is contrary to the proviso to Rule 6(A) of the Rules, which makes it abundantly clear that it is applicable only when single category of posts is notified in the notification and not applicable to the notification where multiple categories of posts are notified. Since only single category of posts of Librarian is notified in the instant case, the respondents are bound to follow Rule 6(A) of the Rules and the issue was set at rest in W.P.Nos.20232 and 20273 of 2018 dated 06.09.2018, which was confirmed by a Division Bench in W.A.Nos.1494 and 1524 of 2018, dated 22.11.2018. Therefore, the respondents are directed to follow Rule 6(A) of the Rules in the select list, which was already prepared, by offering relinquishment option to the selected candidates. However, since the Division Bench in W.A.Nos.1494 and 1524 of 2018, dated 22.11.2018, has already held that the respondents 8 to 119 who figured in the selection list of 264 candidates need not be disturbed, as they have already indicated that they are not willing to relinquish their selection, by extending the same yardstick, the impleaded respondents in W.P.No.29737 of 2018 need not be disturbed, as they are also not willing to relinquish their selection. However, in respect of other selected candidates is concerned, the Public Service Commission shall follow Rule 6(A) of the Rules and finalise the selections accordingly.

Accordingly, W.P.No.836 of 2019 is disposed of directing the respondents to follow Rule 6(A) of the Rules to such of those

candidates who got selected in the selection list, other than those who are impleaded as party respondents in W.P.No.29737 of 2018; and W.P.Nos.29737, 37892 & 37921 of 2018 are dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 23rd July, 2019
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