

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.37966 of 2017

ORDER:

This writ petition is filed seeking the following relief :-

“.... to direct the respondents to consider his claim for the post of SI of Police as per his merit under BC-E category in pursuance of notification issued in 12/2008 with all consequential benefits by declaring the action of the respondents in putting pressure on the petitioner to withdraw the claim of the petitioner in the earlier litigation as bad, illegal, arbitrary, discriminatory and unconstitutional.....”.

Heard Mr.J.Sudheer, the learned counsel for petitioner and the learned Standing Counsel for the 3rd respondent.

It has been contended by the petitioner that he was appointed as a Police Constable during the year 2001 and while he was discharging his duties, the respondents have issued recruitment Notification for the post of Sub-Inspector of Police on 06.06.2008. The petitioner has responded to the said Notification and at the time of submitting his application form, the petitioner has claimed that he is a member belonging to BC-B Community and he has participated in the selection process and later on, the respondents have issued another Notification for the post of Sub-Inspector of Police on 31.12.2008. The petitioner has responded even to the second Notification issued on 31.12.2008. However, this time, the petitioner has claimed that he is a member belonging to BC-E community. Since the petitioner has claimed two different Communities, the respondents have initiated action against the petitioner, including criminal action. The respondents have

withdrawn the criminal action vide proceedings dated 07.12.2012. Thereafter, the petitioner has filed O.A.No.82 of 2012 seeking a direction to the respondents to consider his case for appointment to the post of Sub-Inspector of Police in terms of the Notification dated 31.12.2008. Subsequently, the petitioner has withdrawn the said O.A. on 30.08.2012. The petitioner has filed the present writ petition alleging that when reservation in favour of Muslims was not extended as a policy the petitioner is a member belonging to Dudekula community, which earlier was classified as BC-B and consequent upon a policy being taken by the State Government providing reservations even in respect of certain communities of Muslims also in the form of special category of BC-E, the petitioner has secured the Community Certificate under BC-E category and he is fully eligible and qualified to be appointed for the post of Sub-Inspector of Police based upon merit secured pursuant to Notification dated 31.12.2008. Therefore, the counsel for the petitioner submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for appointment to the post of Sub-Inspector of Police as per merit under BC-E community .

Learned Standing Counsel appearing for the 3rd respondent has contended that the petitioner had earlier applied as BC-B candidate pursuant to Notification dated 06.06.2008 and subsequently appeared for the next recruitment Notification dated 31.12.2008 claiming as BC-E candidate. In the selections, pursuant to Notification dated 31.12.2008, the petitioner has not come within the zone of consideration even under BC-E category. He further

submits that since the relief sought for by the petitioner was already adjudicated before the Tribunal in O.A.No.82 of 2012 and the same was dismissed as withdrawn vide order dated 30.08.2012, the petitioner cannot file the present writ petition. He further submits that there are no vacancies pursuant to two Notifications, as the vacancies have been filled up and the unfilled vacancies are re-notified in the subsequent Notifications. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that when there are no vacancies pursuant to Notification issued in the year 2008, the relief sought for by the petitioner cannot be granted. Moreover, the petitioner has unsuccessfully approached the Tribunal in the form of O.A.No.82 of 2012 and the petitioner has withdrawn the said O.A. on 30.08.2012. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 17-07-2019
Prv

