

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.41290 OF 2018

ORDER

This Writ Petition is filed seeking the following relief:

“.....to issue an appropriate writ or direction, more particularly a Writ in the nature of Mandamus declaring the inaction of the respondents Nos.1 to 3 in not regularizing the services of the petitioners pursuant to the proceedings dated 29-07-2017 issued in T.G.O.O.No.216/CGM(HR) 2017 and T.G.O.O.No.217/CGM(HR) 2017 is illegal, arbitrary and unconstitutional and consequently direct respondent Nos.1 to 3 to forthwith regularize the services of the petitioners by duly absorbing them in TSGENCO pursuant to the proceedings dated 29-07-2017 issued in T.G.O.O.No.216/CGM(HR) 2017 and T.G.O.O.No. 217/CGM(HR) 2017 and be pleased to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Heard Sri Rajagopallavan Tayi, learned counsel appearing for the petitioners and learned Standing Counsel appearing for the respondent-Corporation.

The petitioners in this writ petition are claiming to be working in Ramagundam Thermal Power Station as Skilled Artisans Grade-II, Semi Skilled Artisans Grade-III, Unskilled Artisans Grade-IV since more than 15 years. 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 2018 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., 4.12.2016, 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 for the respondent–Corporation, 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 2018 and batch, dated 3.10.2018, 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 petition at the stage of admission, directing the petitioners to make 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

30th April, 2019
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