

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.14179, 14221 and 16895 of 2019

COMMON ORDER:

Heard Smt K.Udaya Sri, learned counsel appearing for the petitioners and Sri J.Sreenivasa Rao, learned Standing Counsel appearing for the respondent-Singareni Collieries Company Limited.

Since the issue involved in all these writ petitions is one and the same, they are being heard together and disposed of by way of this common order.

For the sake of convenience, the facts in W.P.No.14179 of 2019 are discussed hereunder.

W.P.No.14179 of 2019 is filed seeking the following relief:

“to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus or any other appropriate writ (i) declare the Circular Ref.No.CRP/PER/PM/4194/1115, dated 26.6.2019 issued by the respondents in so far as excluding the Fitters working in Longwall Sections/Continuous Minors for opting to E.P Fitters in opencast Mines is discriminatory and violative of Articles 14 and 16 of Constitution of India (ii) direct the respondents to consider the in-service Fitters including the petitioners working in Longwall Sections/Continuous Minors on par with the in service Fitters working in underground mines for the post of E.P Fitters Trainee to work in opencast Mines and select the petitioners and issue necessary postings in pursuance of the Trade test and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

It is the case of the petitioners that they are working as Fitters with the respondent-Singareni Collieries Company Limited. As per the Memorandum of Settlement entered into between the respondent-management and the Union, and in

view of the promotional policy, promotional posts were created for Fitters. However, contrary to the said settlement, the respondents have issued a Circular dated 26.06.2019 inviting applications from non-service Fitters, who are working in monthly T&S Grade-D and above working in Underground Mines as on 1.3.2019. Their grievance is that though they are eligible for promotion, their cases were not considered only on the ground that they are working in Underground Mines. Challenging the said action of the respondents, the present writ petition is filed.

While admitting the writ petition on 11.07.2019, this Court directed the respondents to permit the petitioners for the selection process to the posts of E.P. Fitter in pursuance of the Circular dated 26.06.2019 issued by the respondents. However, the result of the petitioners shall not be declared until further orders.

Learned counsel appearing for the petitioners submits that in pursuance of the interim order granted by this Court on 11.07.2019, all the petitioners were permitted in the selection process and the petitioners have fared well in the said selection process. It is further contended that though in the counter-affidavit filed by the respondents, the respondents have admitted that the petitioners have come within the zone

of consideration for the posts of E.P.Fitter/E.P.Electrician, their cases were not considered only on the ground that they are working in the Underground Mining. It is further contended that the respondents have considered some of the candidates, who are working in the Underground Mining also, for selection to the posts of E.P.Fitter/E.P.Electrician. It is further contended that appropriate orders be passed in the writ petition directing the respondents to consider the cases of the petitioners for selection to the posts of E.P.Fitter/E.P.Electrician in terms of the Circular dated 26.6.2019 irrespective of the fact that the petitioners are working in Longwall Sections/Continuous Minors.

Learned Standing Counsel appearing for the respondents contended that no doubt, the petitioners have come within the zone of consideration for selection to the posts of E.P.Fitter/E.P.Electrician, but the respondents have not considered their cases for selection only on the ground that the petitioners are working in Longwall Sections. It is further contended that the respondents have given specialized training to the petitioners so as to enable them to work in the Longwall Sections and their services are more required for a period of two years.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that admittedly, all the petitioners have requisite the required qualification for selection to the posts of E.P.Fitter/E.P.Electrician and they are coming within the zone of consideration for promotion to the posts of E.P.Fitter/E.P.Electrician. The respondents cannot deny the cases of the petitioners for selection to the posts of E.P.Fitter/E.P.Electrician only on the ground that they are working in Longwall Sections. The contention of the respondents is that the services of the petitioners are more required for Longwall Sections and even if it is accepted, the respondents cannot deny their right of consideration to the posts of E.P.Fitter/E.P.Electrician on that ground. It is always open for the respondents to utilize the services of the petitioners as and when their services are required in Longwall Sections even after their selection as E.P.Fitters/E.P.Electricians.

Accordingly, all the Writ Petitions are disposed of directing the respondents to consider the cases of the petitioners for promotion to the posts of the E.P.Fitter/E.P.Electrician. However, it is always open for the respondents to utilize the services of the petitioners as and

when their services are required in Longwall Sections even after their selection as E.P.Fitters/E.P.Electricians. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

Date: 7.4.2021
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JUSTICE ABHINAND KUMAR SHAVILI