

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT APPEAL Nos.37 OF 2012 & 165 OF 2015

COMMON JUDGMENT: *(per the Hon'ble Sri Justice A. Ramalingeswara Rao)*

With the consent of the learned counsel for the parties, these two Writ Appeals are being disposed of by this common judgment.

W.A.No.37 of 2012 arises out of an order dated 19.11.2010 in W.P.No.2179 of 2006, whereas W.A.No.165 of 2015 arises out of an order dated 20.01.2015 in W.P.No.449 of 2015.

W.P.No.2179 of 2006 was filed by the respondents in W.A.No.37 of 2012 challenging the action of the appellants in denying the service benefits to them w.e.f. 06.12.1996 as contemplated under B.P.Ms.No.326, dated 14.03.1998 and computing their service w.e.f. 15.04.2002, while allowing the service benefit to all other similarly absorbed persons w.e.f. 06.12.1996 as per the said B.P.Ms. The writ petitioners/respondents worked as Contract Labourers (Electricians) in the erstwhile APSEB since 1995 and they were absorbed on 15.04.2002. Some of them were absorbed pursuant to B.P.Ms.No.326, dated 14.03.1998, w.e.f. 06.12.1996 and pecuniary benefits were given to them w.e.f. 09.12.1997. The absorption of the writ petitioners took place pursuant to orders of this Court in W.P.No.6118 of 1998, dated 11.11.1998, in W.P.No.15507 of 1999, dated 24.03.2000, and C.C.No.1436 of 2001. Learned Single Judge of this Court ultimately allowed W.P.No.2179 of 2006 on 19.11.2010 directing the appellants herein to extend the benefits of B.P.Ms.No.326, dated 14.03.1998 to the writ petitioners notwithstanding their absorption in service under

the subsequent Memo, dated 15.04.2002. Pursuant to the said orders of the learned Single Judge, the Chief Engineer of the appellants passed an order on 31.12.2014 implementing the orders of the Court. In view of the same, learned counsel for the appellants submits that no further orders are necessary in the present Writ Appeal and, thus, the Writ Appeal became infructuous.

Learned counsel for the appellants submits that there are several Writ Petitions pending based on the judgment of the learned Single Judge in W.P.No.2179 of 2006, dated 19.11.2010, and the dismissal of the present Writ Appeals should not stand in their way of contesting those Writ Petitions with regard to laches and other grounds. We hold that the disposal of W.A.No.37 of 2012 does not prevent the appellants from raising all contentions that are open to them to raise in the Writ Petitions, which are pending before this Court.

W.A.No.165 of 2015 was filed by the petitioner in W.P.No.449 of 2015 challenging the seniority list prepared by respondent No.2 vide Memo dated 31.12.2014, and the same was dismissed by learned Single Judge. While dismissing the said Writ Petition by order dated 20.01.2015, learned Single Judge opined that the order was passed by the Chief Engineer on 31.12.2014 as a measure of compliance with the judgment already rendered by this Court in W.P.No.2179 of 2006, dated 19.11.2010, and if the writ petitioner was aggrieved by the said judgment, he ought to have initiated necessary legal proceedings in that regard, but cannot prevent implementation of judgment by instituting a separate Writ Petition. In fact, prior to filing of W.A.No.165 of 2015, the present appellant filed W.A.M.P.No.299 of 2015 in W.A. (SR).No.3820 of 2015 seeking leave to challenge the orders of the learned Single Judge in W.P.No.2179 of 2006, dated 19.11.2010, while filing a separate comprehensive Writ Petition in W.P.No.201 of

2015, challenging the seniority list and the writ petitioner did not press the said W.A.M.P. and the writ petitioner was given liberty to pursue W.P.No.201 of 2015 and, accordingly, W.A.M.P.No.299 of 2015 was dismissed on 18.02.2015. Now it is clear that the appellant in W.A.No.165 of 2015 filed W.P.No.201 of 2015, where the issue relating to seniority of the parties consequent to the order passed by the learned Single Judge in W.P.No.2179 of 2006, dated 19.11.2010, and implemented by the appellants in W.A.No.37 of 2012 by proceedings of the Chief Engineer, dated 31.12.2014, is pending before the learned Single Judge for consideration in the aforesaid Writ Petition.

In view of the same, learned counsel for the appellants submits that the Writ Appeals can be disposed of giving liberty to the appellants to raise all contentions relating to seniority in the pending Writ Petition in W.P.No.201 of 2015.

Recording the said submission of the learned counsel for the appellants, we dispose of the Writ Appeals giving liberty to both parties to raise all contentions relating to seniority, consequent to the orders passed by the learned Single Judge in W.P.No.2179 of 2006, dated 19.11.2010, in those proceedings.

The Writ Appeals are, therefore, disposed of as infructuous. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in the Writ Appeals stand disposed of.

DILIP B.BHOSALE, J

22.04.2015
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A.RAMALINGESWARA RAO, J