

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WRIT PETITION No.12947 of 2012

Between:

Md. Hafeez Ahamed, S/o. Md. Hagdum Mohiddun,

Aged 42 years, Occ: Shift Operator 33/11,

K.V. Substation, Ramudupalem,

Indukurupet Mandal, Nellore Rural,

Nellore District & another

.. Petitioners

AND

The Southern Power Distribution Company Ltd.,

Rep. by its CMD (Chairman and Managing Director),

Thirupathi, Chittoor District & 2 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 16.11.2015

SUBMITTED FOR APPROVAL:

-

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

- 1 Whether Reporters of Local newspapers Yes
may be allowed to see the Judgments?
- 2 Whether the copies of judgment may be Yes
marked to Law Reports/Journals

3 Whether His Lordship wish to see the Yes
fair copy of the Judgment?

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12947 of 2012

-

ORDER:

The averments made in the affidavit filed in support of the writ petition disclose that the petitioners possess the qualification of pass in S.S.C and I.T.I in Fitter Trade. According to the petitioners, the first petitioner was initially appointed as Shift Operator on 08.05.2003 and the second petitioner was appointed in the year 2002 and they have been working regularly as Junior Linemen. They have been discharging the work of shift duty putting on and off of power supply to various categories, phase village connections and 24 hours supply to Mandal Head Quarters and all other duties to be discharged by the regular Junior Lineman. However, their status has been on contract basis. Recently, the respondent Distribution Company has resorted for recruitment to the post of Junior Plant Attendant. In the said recruitment notification,

qualifications prescribed are I.T.I in Electrical Trade. On account of prescription of such qualification, the petitioners are deprived of their entitlement to participate in the recruitment even though by virtue of the long service rendered by them they have gained sufficient experience and the experience gained by them so far is lost and such action of the respondents in restricting the consideration only to the persons having the I.T.I in Electrical Trade is *ex facie* illegal. Hence, this writ petition.

2. Learned counsel for the petitioners contends that the petitioners, on account of the long service rendered by them, have gained sufficient experience and this experience gained by them obviates the requirement of possessing the Electrical Trade in I.T.I.

3. In support of the said contention, learned counsel for the petitioners placed reliance on the decision of the Supreme Court reported in ***B.N. Saxena Vs. New Delhi Municipal Committee and others.***

4. Learned Standing Counsel representing the respondent Distribution Company states that according to the circular instructions governing the recruitment of the Junior Linemen and as per the recruitment notification, dated 30.01.2012, a person, in order to compete to the post of Junior Linemen, must possess I.T.I in Electrical/Wiremen Trade or Intermediate with a vocational course in Electrical Wiring and Servicing of Electrical Appliances. She further submits that no post of Junior Plant Attendant is notified and no such post exists. What is notified is only a Junior Lineman and for a Junior Lineman, the above eligibility criteria is mandatory and if the candidate does not possess such eligibility criteria, he is not entitled to be considered for such appointment.

5. As seen from the extract of the notification in Page 2 of the counter affidavit, the eligibility criteria, as advertised, is very clear. Unless a person possesses I.T.I with Electrical/Wiremen Trade or equivalent qualifications mentioned therein, he has no eligibility to compete. Admittedly, the petitioners do not have the said qualification. The petitioners are having I.T.I in Fitter Trade. The

petitioners only fall back on the alleged experience gained by them while working on contract basis with the respondent Distribution Company and contend that the experience gained by them is sufficient in lieu of the qualification prescribed. Admittedly, the circular instructions governing the post of Junior Lineman and the recruitment notification, dated 30.01.2012, are not under challenge. The notification clearly prescribes the requirements for competing to the post. Thus, whether the experience gained by the petitioners is sufficient and that they need not possess the eligibility criteria prescribed in the recruitment notification need not be gone into in the absence of a challenge to the recruitment notification.

6. The learned counsel for the petitioner based his contention on the principle laid down by the Supreme Court in **B.N. Saxena's case (supra)**. In the said decision, the post in issue was Head Draftsman. The case was concerning promotion from the post of Senior Draftsman. The post of Junior Draftsman was upgraded to Senior Draftsman. No recruitment qualifications were prescribed to hold the post of Junior Draftsman, which is subsequently designated as Senior Draftsman. However, while providing channel for promotion as Head Draftsman, qualifications are prescribed which mandate possession of Diploma with three years of service. The Supreme Court analyzes the recruitment rules which also prescribe as eligibility to a person, if he has six years of experience instead of diploma and three years. Having regard to the experience qualification already provided in the regulations governing the Head Draftsman, the Supreme Court found that by not providing for such eligibility criteria to persons working as Senior Draftsmen for promotion as Head Draftsmen, when no such requirement was prescribed in the entry cadre is not valid in law and consequently issued directions.

7. The issue in this case concern recruitment from open market and prescription of eligibility criteria as with regard to technical qualifications. Thus, said decision do not come to the aid of the petitioner.

8. Furthermore, Court cannot treat a qualification as equivalent to

another qualification nor can it mandate consideration of a claim contrary to recruitment qualifications prescribed. Therefore, I see no merit in the writ petition and the writ petition is liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 16th November, 2015

Note: LR copy to be marked.

(B/o.)

KL

HON'BLE SRI JUSTICE P.NAVEEN RAO

-

WRIT PETITION No.12947 of 2012

-

Date: 16th November, 2015

KL