

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 349 OF 2015

ORDER:

The petitioner herein sought for a writ of mandamus for declaring the action of Respondents 1, 3 and 4 in not considering his candidature for appointment as a Contract Labour in the Operations and Maintenance side of the 3rd or the 4th respondent's power generating station/project or to any other suitable post, based upon his suitability or eligibility, as illegal.

It is the case of the petitioner that he has completed his B.Tech in Electronics and Electrical Engineering Branch and from 01.11.2009 up to 30.06.2011, he worked as a skilled contract labour under the administrative control of the Chief Engineer (Operation & Maintenance), Kothagudem Thermal Power Station, Stages V and VI, Paloncha, Khammam District and that he has also been issued number for employees' provident fund membership and was consistently provided with the necessary gate passes by the security officers in-charge to enable him to gain ingress and egress to the power generating installations. It is also the case of the petitioner that the 1st respondent GENCO has developed a practice to keep on engaging the qualified personnel as skilled contract labour for a number of years, and thereafter, regularizing their services by taking an appropriate policy decision. In the absence of any such policy decision readily available, Respondents 3 and 4 in particular would continue the skilled labour on contract basis, so that the installations can be manned by them effectively and efficiently. Since the case of the petitioner has not been considered obviously beyond 30.06.2011, the present Writ Petition is filed.

The 1st respondent is the creature of a statute and hence, it answers the description of 'State' for the purpose of Part-III of our Constitution. Employment under the control of the 1st respondent

Corporation is therefore, public employment and consequently, the strict regime enshrined in Articles 14 and 16 of the Constitution has got to be faithfully carried out by it. The petitioner is not the only candidate, who has completed B.Tech (EEE) course, available. There may have been few lacs of such candidates available and waiting for their turn to establish their merit and stake a claim for public employment. Therefore, the practices, if any adopted and followed by Respondents 3 and 4 sans any legal basis cannot be treated as offering a valid platform for one to seek a writ of mandamus. In the absence of any such legal right, much less a fundamental right, the writ of mandamus as prayed for could not have been issued.

Hence, the Writ Petition is devoid of any merit and accordingly, it is dismissed at the admission stage. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

19th January 2015

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