

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 5470 of 2007

ORDER: (per the Hon'ble Sri Justice Dilip B.Bhosale)

Mr.P.Sridhar Rao, learned counsel for the petitioners, at the outset, placed before us the common judgment, dated 06.11.2014, passed by the Division Bench in W.A.Nos.404 of 2006 & 492 of 2009 and W.P.Nos.3383, 13318, 13934 & 14136 of 2007 and submitted that the writ petitioners in these matters and the petitioners in the instant writ petition are similarly placed. He submits that even the prayers made in the present writ petition and were made in the aforementioned four writ petitions are also identical. The aforementioned four writ petitions, he submits, were allowed by the learned Single Judge, against which, A.P. GENCO, represented by its Managing Director had filed appeals (W.A.Nos.404 of 2006 and 492 of 2009) and the appeals were allowed by the Division Bench by common judgment, dated 06.11.2014. He submits that the instant writ petition, therefore, deserves to be allowed in terms of the common judgment of the Division Bench, dated 06.11.2014. This submission of learned counsel for the petitioners has not been disputed by learned counsel appearing for the respondents, i.e. A.P. GENCO.

We have perused the common judgment, dated

06.11.2014, in W.A.Nos.404 of 2006 and 492 of 2009.

The petitioners in those writ petitions, from which the aforesaid appeals arose, sought to challenge the action of the respondents (A.P. GENCO) in issuing memos of different dates, refusing to regularize them as Junior Plant Attendants with effect from 09.12.1996. The Division Bench disposed of the writ appeals with the following observations:

“In the writ petitions filed by them, the respondents challenge not only the memo, dated 01.12.2000, but also B.P.Ms.No.1048, dated 23.09.1989 and other relevant proceedings. According to them, the stipulation of pass in 10th Class itself was not proper.

We are of the view that the challenge to B.P.Ms.No.1048, dated 23.09.1989, virtually became nugatory or redundant, once the respondents were extended the benefit of appointment as J.P.As., by relaxing those very qualifications. If they were of the view that the stipulation of the qualification itself is wrong, they were not supposed to reap the benefit under memo, dated 01.12.2000. Conversely, once they have availed the benefit under memo, dated 01.12.2000, they cannot challenge B.P.Ms.No.1048, dated 23.09.1989.

However, once the appellants have relaxed the qualifications and appointed the respondents as J.P.As., the date of such appointment ought to have been 06.12.1996, as was done in the case of other candidates, who were appointed in the year 1998. This can be for the limited purpose of fixation of pay scales for the respondents, who were discharging the same functions as those that were appointed as J.P.As., in the year 1998, with effect from 06.12.1996. The learned Single Judge granted the relief in those lines and we do not find any basis to interfere with the same.

However, the apprehension of the appellants as well as J.P.As., who have been appointed in the year 1998, that the respondents herein may claim seniority over them, cannot be ignored. Since the respondents herein i.e. the writ petitioners, did not hold the same qualifications as the persons regularised in 1998, they deserve to be

treated as juniors to them.”

In this backdrop, learned counsel for the parties have jointly requested to dispose of the instant writ petition in terms of the common judgment, dated 06.11.2014, passed in W.A.Nos.404 of 2006 and 492 of 2009.

Hence, we dispose of the writ petition in terms of the common judgment, dated 06.11.2014, passed by the Division Bench in W.A.Nos.404 of 2006 and 492 of 2009. As the Division Bench clarified in the judgment, dated 06.11.2014, we also clarify that since the petitioners do not hold the same qualification as the persons regularized in 1998, they deserve to be treated as juniors to them. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B.BHOSALE,J

**A.RAMALINGESWARA
RAO,J**

Dt:26.02.2015

kdl

