

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.11839 OF 2015

ORDER:

The petitioner herein calls in question the order passed by the Divisional Electrical Engineer, Operation Division, Bapatla on 30.08.2014 requiring Sri B.Subba Rao, Kakumanu to supply another qualified shift operator with good antecedents in place of the writ petitioner herein against whom the Divisional Electrical Engineer came to learn that four criminal cases have been registered on 24.07.2013, 02.08.2013, 03.11.2013 and 22.02.2014. The services of the petitioner are thus, sought to be replaced by another shift operator.

Learned counsel for the petitioner would urge that this action of the respondents' amount to retrenchment of the writ petitioner from service without following the due procedure prescribed under the Industrial Disputes Act. This apart the petitioner has been proceeded against unjustly by the police. No competent Court has convicted the petitioner of any of the offences booked against him. The Divisional Electrical Engineer is, therefore, prejudging the entire cause and treating the petitioner to have committed the crime and thus guilty of bearing improper conduct, such prejudging of the issues by the Divisional Electrical Engineer is not only illegal but is totally unwarranted. He has also further urged that from the statement of experience certificate furnished by the same Divisional Electrical Engineer, which is placed at page No.15 of the writ petition paper book, it emerges that the petitioner has been continuously engaged from 30.09.2009 onwards by the respondents themselves. It is only for purpose of accounting facility, the name of the petitioner is shown as if he has been sponsored by one Contractor or the other, whereas the petitioner has been selected by the Corporation and he has been shown as if he has been sponsored by the existing contractor that was because the petitioner not only possessed all the necessary qualifications and eligibility to hold the post of shift operator but also because he has been rendering satisfactory services to the Corporation.

All these contentions canvassed at the bar are not relevant for the enquiry as the petitioner has not shown any order issued by the competent authority of the respondents – board appointing the petitioner in its services. On the other hand, it appears that the respondents – Corporation is awarding contract on an annual basis

on one human resources supplier or the other, who is obliged to supply manpower possessing necessary qualifications and eligibility. Therefore, it might be a case where the petitioner is picked up by one contractor or the other as he possessed necessary qualifications and also the necessary experience to function as a Shift Operator. That does not render him automatically to be treated as an employee of the respondents – Corporation. Therefore, there is any amount of distinction between the employee of the corporation and employee of a contractor whose name has been sponsored by the contractor for consideration of the competent authority. I am, therefore, not in a position to appreciate any of the contentions canvassed by the learned counsel for the petitioner.

On merits, all I need to observe is that the Divisional Electrical Engineer is certainly justified in requiring the contractor namely Sri B.Subba Rao to sponsor a candidate who has a clean record. The 1st respondent – Organization being a public body, it has to make every effort to ensure that people with decent background and conduct alone are given employment with it. Otherwise, it will be losing its credibility in the larger society. Therefore, I am not in a position to find anything improper and illegal in the action of the Divisional Electrical Engineer, 4th respondent herein. Hence, this writ petition is dismissed at the admission stage after hearing Smt.J.Koteswaridevi, learned standing counsel, who has accepted notice on behalf of the respondents. No order as to costs.

All the miscellaneous petitions pending in this writ petition shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

22.04.2015

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