

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

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WRIT APPEAL No.260 of 2010

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JUDGMENT: (*Per Hon'ble Sri Justice R. Subhash Reddy*)

Aggrieved by the order dated 24.12.2009 in W.P.No.22713 of 2004 passed by the learned Single Judge of this Court, this writ appeal is filed by respondents 1 and 2 in the said writ petition.

In the writ petition, the respondents herein have challenged the order dated 10.03.2005 passed by the Superintending Engineer (Operation), Southern Power Distribution Company of A.P. Limited (APSPDCL), Vijayawada, the 1st appellant herein, rejecting their candidature for appointment in the service of the A.P.Transco/APSPDCL.

The erstwhile Andhra Pradesh State Electricity Board has issued B.P.Ms.No.36, dated 18.05.1997, to consider the cases of Ex-casual Labour, Village Electricity Workers and Contract Labour for appointment to 50% of the vacancies in the posts of Junior Lineman/Junior Plant Attendant/Lower Division Clerk/Revenue Cashier/Typist/Sub-Engineer etc. As per the said B.P.Ms.No.36, one of the conditions for considering the cases of contract labour is that they should have been on the rolls as on 18.05.1997.

Initially, when the respondent/writ petitioners, who claimed to have worked as contract labour under an unlicensed contractor –

M.Sambasiva Rao, were not called for interview for appointment in accordance with B.P.Ms.No.36 dated 18.05.1997, they filed the writ petition in the year 2004. However, during pendency of the writ petition, the 1st appellant has rejected the claim of the writ petitioners and communicated the same vide letter dated 10.03.2005. The rejection was mainly on two grounds viz., the writ petitioners have enclosed the service certificates that were issued by the Contractor without the signatures of the concerned Assistant Divisional Engineer and that the enquiry revealed that the said certificates were not genuine. After considering the matter on merits, by order dated 24.12.2009, while allowing the writ petition, the learned Single Judge has set aside the rejection order dated 10.03.2005 passed by the 1st appellant and issued directions to consider the cases of the writ petitioners for appointment under B.P.Ms.No.36, dated 18.05.1997, in suitable posts as per their eligibility and fitness.

In this writ appeal, it is contended by Sri G.Vidya Sagar, learned Senior Counsel appearing for the appellants, that the service certificates produced by the writ petitioners were not verified with reference to the agreements entered by the Department with the contractor and there is no certification as required under B.P.Ms.No.36 dated 18.05.1997. It is submitted that the service certificates were merely signed by the Assistant Divisional Engineer, permitting the appellants to examine the service certificates filed by the writ petitioners so as to ascertain whether they conform to the requirements as contemplated under B.P.Ms.No.36, dated 18.05.1997.

On the other hand, it is submitted by learned counsel appearing for the respondent/writ petitioners that having examined the service certificates, the learned Single Judge has issued directions to consider the cases of the writ petitioners for appointment under B.P.Ms.No.36 dated 18.05.1997 in suitable posts as per their eligibility and fitness, as such, no case is made out so as to interfere

with the directions issued by the learned Single Judge.

We have perused the order passed by the learned Single Judge and the service certificates produced by the writ petitioners and also other material available on record. The learned Single Judge, while setting aside the order of rejection dated 10.03.2005, directed the respondents therein/appellants herein to consider the cases of the writ petitioners for appointment in terms of B.P.Ms.No.36, dated 18.05.1997, in suitable posts as per their eligibility and fitness. As per the requirement under B.P.Ms.No.36 dated 18.05.1997, the Assistant Divisional Engineer was authorised to certify the service certificates with reference to agreements entered by the Department with the contractors, whether licensed or unlicensed. In that view of the matter, we are of the view that mere attestation by the Assistant Divisional Engineer is not sufficient and the service certificates are to be certified by the concerned Officer with reference to the agreements entered by the Department with the licensed/unlicensed contractors. In view of the same, we deem it appropriate to dispose of the writ appeal permitting the appellants to examine the service certificates filed by the respondent/writ petitioners so as to ascertain whether they conform to the requirements as per B.P.Ms.No.36 dated 18.05.1997 and whether the writ petitioners have worked as contract labour or not, with reference to the agreements entered by the Department with the contractors, before taking a decision. It is open to the respondent/writ petitioners to place the relevant material to substantiate their claim that they worked as contract labour during the relevant time. As the claims of the respondent/writ petitioners are pending, the appellants shall pass appropriate orders in the light of the directions issued in this order, within a period of two months from today.

Accordingly, the writ appeal is disposed of and the order dated 24.12.2009 of the learned Single Judge stands modified to the extent indicated above.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

31.03.2015

v v