

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.32317 and 28235 of 2013

COMMON ORDER:

1. These two Writ Petitions are being disposed of by this common order as they involve similar point for consideration by this Court.

2. The petitioners are Assistant Linemen who earlier worked on contract basis in the 1st respondent Corporation. They passed I.T.I. in Electrical Trade. A notification was issued in June 2006 for appointment of Junior Linemen on contract basis. Pursuant to the said notification, all the petitioners applied for the said post. Thereafter, the Employees Associations and Unions submitted a representation to give weightage to the contract service in appointments and taking the said representation into consideration, all the Distribution Companies issued a revised notification on 20/21.10.2006. However, in the revised notification, a condition was placed in paragraph 6 (iv) (c) stating that if more than one contract labour applies for the post, the contract labour with earlier date of birth will be given preference in selection. The petitioners were appointed as contract Junior Linemen in the year 2007. Pursuant to the said notification, about 536 persons were selected by the 2nd respondent on 12.01.2007 and were allotted to respective divisions. They were given posting orders on 17.01.2007 and they joined on 19.01.2007. Thereafter, they were appointed as regular Junior

Linemen with effect from 03.10.2008 and their probations were also declared. The non-selected candidates filed several writ petitions challenging the condition No.6 (iv) (c) of the notification dated 20/21.10.2006 and ultimately after disposal of the writ petitions by order dated 02.05.2008, a Division Bench of this Court in Writ Appeal No.1434 of 2008 and batch passed the following order on 10.11.2009:

“We however make it clear that the persons who have not applied in pursuance of the notifications dated 08.06.2006 and the other dates and who have not subjected themselves to the selection process have no right whatsoever to claim that they are entitled for such appointment.

We also make it clear that all the selected and appointed respondents-writ petitioners and other similarly situated would be entitled for all benefits on par with the persons who have been appointed as Junior Linemen as per condition No.6 (iv) (c) of the revised notification, including regularization of their services as per rules and policy.”

3. After disposal of the Writ Appeals, the Distribution Companies expressed their willingness to absorb the persons who were adversely affected by the said condition considering their cases also without insisting upon the fulfillment of the said condition. Accordingly, several persons were appointed as Junior Linemen. Challenging those appointments, several writ petitions were filed

and they were referred to the Division Bench. A Division Bench of this Court in W.P.No.8794 of 2007 and batch dated 14.03.2012 held that selections made contrary to the conditions of the notification were illegal and the respondents were directed to review the entire selection process. In the meanwhile, the petitioners and other Junior Linemen appointed along with them were promoted as Assistant Linemen by order of the 3rd respondent dated 28.06.2011. However, the seniority lists in the cadre of Junior Linemen were not finalized while effecting promotions to the posts of Assistant Linemen. The Managing Director of the 1st respondent issued a memo dated 15.05.2012 directing preparation of the seniority lists of all contract labours as on 08.06.2006 based on the length of service, but not on the age by following the judgment of the Division Bench of this Court in W.A.No.1434 of 2008 and batch dated 10.11.2009. When the 3rd respondent issued provisional seniority lists of Assistant Linemen of Rajahmundry Division, ignoring the said direction, by memo dated 26.10.2013, in the descending order of age, the petitioners submitted their objections. The 3rd respondent, on the other hand, addressed a letter to the 2nd respondent on 31.10.2013 for according permission to conduct D.P.C. for promotion to the posts of Linemen among others. Thereafter, DPC was held on 7/8.11.2013, but no appointments were issued. It appears that respondents 4 to 6 also issued letters dated 23/24.10.2013 seeking permission to the 2nd respondent to conduct DPC for promotion to the posts of Linemen. Challenging the action of the respondents in

acting contrary to the order of this Court in W.A.No.1434 of 2008 and batch dated 10.11.2009, the present writ petitions are filed.

4. This Court by order dated 12.11.2013 granted interim direction directing respondents 2 to 6 not to make any promotions to the posts of Linemen from Assistant Linemen in Rajahmundry circle.

5. Seeking vacation of the aforesaid interim order, W.V.M.P.Nos.70 of 2014, 891 of 2014 and 3573 of 2015 were filed.

The facts leading to the disposal of the W.A.No.1434 of 2008 and batch by order dated 10.11.2009 were not disputed. However, it is stated that WAMP No.195 of 2011 was filed seeking clarification of the order of the Division Bench in W.A.No.1434 of 2008 dated 10.11.2009 on the recruitment of freshers other than contract labour against the notified vacancies as per the first notification dated 08.06.2006. The Division Bench while disposing of the Contempt Case No.467 of 2010 and batch on 08.11.2011 dismissed the said WAMP No.195 of 2011 on the ground that the order of the Division Bench dated 10.11.2009 attained finality. In the meanwhile, the Government of Andhra Pradesh accorded permission by letter dated 15.06.2011 to fill up 7319 vacancies of Junior Linemen in three phases with a gap of six months for each phase. The APTRANSCO authorities permitted the APEPDCL by letter dated 22.06.2011 to fill up 162 vacancies of Junior Linemen out of which 143 vacancies have been set off for the candidates who were deprived of appointment as

Junior Linemen due to the condition No.6 (iv) (c) of the revised notification in 2006 and these 143 vacancies were filled by the respective Superintending Engineer/Operation circles. In order to implement the orders of this Court, the APTRANSCO convened a meeting with all concerned officials on 18.04.2012 and necessary guidelines and clarifications were issued to the four Discoms. Notices were issued to certain contract Junior Linemen whose services were regularized with effect from 03.10.2008 and who were recruited as per the notifications dated 08.06.2006 and 20.10.2006 before taking a decision to terminate their employment. In the meantime, some of the contract Junior Linemen approached the Supreme Court in SLP (C) C.C.No.8713-8822 of 2013 against the order of this Court dated 14.03.2012 and the order of this Court was stayed by the Supreme Court. Thereafter, certain instructions were issued on 20.08.2013 to the four Discoms on the representation of the trade unions and associations. Thereafter, provisional seniority lists of contract Junior Linemen, who were recruited on the basis of the notifications dated 08.06.2006 and 20.10.2006, whose services were regularized on 03.10.2008 and promoted as Assistant Linemen after the common order dated 10.11.2009, were prepared and the same were communicated to the respective Assistant Linemen by memo dated 26.10.2013. When the employees raised objections, it was stated that their objections will be considered after final outcome of the cases pending before the Supreme Court. Now, there is need for

promotion of Assistant Linemen and accordingly sought for vacation of the interim order.

6. Admittedly, the petitioners were appointed as contract Junior Linemen and pursuant to the notifications dated 08.06.2006 and 20.10.2006, their services were regularized with effect from 03.10.2008. Later on they were promoted as Assistant Linemen. The issue with regard to the appointment of contract Junior Linemen is not yet settled and it is pending before the Supreme Court. The petitioners are working as Assistant Linemen and they are entitled to be considered for promotion to the posts of Linemen, but promotions have to be effected after finalization of the seniority lists in the cadre of Assistant Linemen. Now, provisional seniority lists were prepared based on the common order dated 10.11.2009 in respect of the persons whose services were regularized with effect from 03.10.2008.

7. In view of the same, these two Writ Petitions are disposed of directing the respondents to consider the objections of the petitioners, who are working as Assistant Linemen, if any, and finalize the seniority list in the cadre of Assistant Linemen. The petitioners are given liberty to submit their objections, within a period of four weeks from the date of receipt of a copy of this order, and thereafter the respondents shall finalize the seniority list within a period of four weeks thereafter. After finalization of the seniority list, regular promotions to the posts of Linemen can be effected on

the recommendation of the DPC subject to result of the case pending before the Supreme Court. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

08-09-2016
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