

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.10718 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue an order or direction or writ, more particularly one in the nature of a Writ of Mandamus declaring that the action of the 1st & 2nd respondents in not considering petitioner's representation dated 14-03-2016 for further hospitalization and employment on compassionate grounds as arbitrary, illegal and unlawful and violative of the Article 21 of the Constitution and consequentially direct the 1st respondent to a) provide treatment for the injuries suffered by the petitioner, h) to pay a compensation of Rs 25 lakhs, c) to provide employment in any of the offices of the 1st respondent company.”

2. Petitioner herein belongs to Schedule Caste and according to the petitioner his father died about 5 years back leaving behind him his two brothers and his mother. It is further averred in the writ affidavit that his younger brother and mother are agricultural labourers and are daily wage workers and his elder brother is suffering from stomach ailments and unable to undertake any sort of work. Petitioner herein acquired graduate qualification in the month of July 2014 from Yogi Vemana University, Kadapa. Thereupon, he joined two years Electrician course in the Industrial Training Institute at Kadapa and obtained certificates from the third respondent Industrial Training Institute and as a part of his education he is in the last semester and he was taken as a apprentice trainee by the second respondent/Divisional Engineer in the Vallur Section in the Operations Division, Kadapa and he submitted a joining report at Vallur and joined the apprenticeship on 06.05.2015. As a part of his apprenticeship, the respondents used to ask the petitioner to attend the ongoing cases of defective supply of electricity. According to the petitioner, within a couple of months of joining as an apprenticeship there was a call from the villagers of Golla Obayapalle, complaining of power failure. The villagers called the Line Inspector Rajkumar at about 1-00 pm

in the night and demanded that their complaint be immediately addressed. It is further stated in the writ affidavit that the Line Inspector refused to attend the said demand at that time of night and instead deputed the petitioner to go to that village and to rectify the defect and though the petitioner was just an apprenticeship, he immediately proceeded to the village. It is further stated that the first respondent at that time spoke to the petitioner on phone and persuaded him somehow to rectify the defect.

3. According to the petitioner, on 07.09.2015, the Line Inspector of the respondent organization Mr.Rajkumar, Junior Lineman Mr.Mallikarjun, petitioner herein and another apprentice namely, Malli attended the problem in Peddaputha Feeder Transformer at the village, Chinna Lebaka, and to rectify the defect the Line Inspector disconnected the power supply and the Line Inspector asked the petitioner to climb the pole and give the jumper connection and before climbing the petitioner asked Mr.Rajkumar, Line Inspector whether the electricity was disconnected and for that Mr.Rajkumar, Line Inspector assured the petitioner that the electricity supply was indeed disconnected and thereafter the petitioner climbed the pole and checked electric supply with the tip of his little finger and after having confirmed that there was no supply of power petitioner started work on the connections on the electric pole. It is further alleged that the Line Inspector Mr.Rajkumar restored the electricity supply without paying heed to the fact that the petitioner was still on the pole and as a result the petitioner suffered electrocution and fell down and suffered extensive burn injuries and thereafter the petitioner was shifted to RIMS hospital at Kadapa. It is further stated in the writ affidavit that all the officials including the Divisional Engineer and the Assistant Engineer came to the hospital and assured the petitioner and his family that the petitioner suffered the accident on account of the negligence of the staff and that the petitioner would be looked after fully and be given a job in the department. It is further stated that though the police came to the hospital the officials dissuaded the police from registering a complaint. According to the petitioner, though the petitioner was initially shifted to the RUIA

Hospital at Tirupati in view of lack of adequate facilities even at RIMS Hospital, Kadapa, as the situation was equally bad at Tirupathi, petitioner was shifted to a private hospital called SIMS at Chennai. Because of the deteriorating situation, the SIMS Hospital authorities undertook amputation of left hand of the petitioner on 12.09.2015. According to the petitioner he submitted a representation on 14.03.2016 to the second respondent and the said representation reads as under:

“14th March, 2016

To

The Divisional Engineer Operation Kadapa,
Southern Power Distribution Company of A.P Limited,
Kadapa,

Subject: Representation from Gollapalli Sekhar s/o G.Rayappa in respect of the grievous injuries sustained at the Peddalebaka Transformer, Vallur Mandal, Kadapa district.

Respected Madam

I am writing this letter to you in utter helplessness.

I am Gollapalli Sekhar s/o late Rayappa. I come from a poor SC family. With great difficulty I completed my B.Com degree and enrolled in the Electrical department of ITI at Kadapa. I am one of the first in my family to get educated. As a part of my education, on 5.05.2015, I was inducted as a trainee in the office of the Southern Power Distribution Company at Kadapa.

I sustained grievous injuries while working at the Peddalebaka Transformer on the evening of 7.09.2016, I lost my left hand and sustained grievous wounds on my right hand and all over my body. I suffered these injuries due to the negligence of your employees the Line Inspector Rajkumar and Junior Lineman Mallikarjun. A trainee should not be asked to climb the electric pole. Yet I was asked to climb the pole and rectify the defect. Even as I was on the electric pole, the Line Inspector switched on the electric supply. I was instantly electrocuted and fell down from the pole.

This accident has irreversibly changed my life. On the day when I was hospitalized, you and the staff in your office consoled me and my family members that I will be given treatment and a job in your office. Even as my mother was going to the police station to register a case, you stopped her and reassured her about my rehabilitation.

I was first admitted in the government hospital in Kadapa. As there were no facilities, and because of the seriousness of my condition, I was shifted to Ruia Hospital at Tirupati. Even that hospital did not have any facilities and I was shifted to a private hospital on 12.09.2015. By the time I was taken to this hospital, the doctors told me that I was already too late and that my left arm had to be amputated. I begged the doctors to save my hand, but they expressed helplessness. Finally I lost my left hand. The disability certificate issued by the Government of Andhra Pradesh says that I have suffered 85% disability. However my story doesn't end here. I need further treatment to save my amputated left hand and my right hand. Both the hands are yet to get sensation. This requires further surgery and involved an expenditure of Rs.4

lakhs.

For the 40 days that I was hospitalized, the Junior Line Man (JLM) Mallikarjun was present with me. He paid for the expenses of my hospitalization. After my discharge from the SIMS Hospital at Chennai, he informed me and my family that he will no longer be able to bear any hospital expenses. I returned to your office to report my condition. I requested your office for further treatment as well as your responsibility to give me a job. You were angry and impatient with me. You would not even listen to me. You clearly told me that there is nothing more that can be done.

I was engaged as a trainee in your office by letter dated 05.05.2015. I suffered permanent disability due to the negligence of the employees of your office. A criminal case FIR No.10/2016 dated 21.01.2016 in Vallur Police Station has now been registered against the two employees of your office. Your office has also initiated disciplinary proceedings against these two employees by letter date 28.12.2015.

I have written several letters to your office about my pathetic condition. I come from a very poor SC family. My father is no more. My younger brothers are involved in cooli work. I do not have the resources to continue my treatment. If I do not take further treatment, there is a possibility of losing my right hand too. Because of the delay in treatment, I lost my left hand. Yet your office is not responding to my call of distress. On the day of the accident, your office promised me hospitalization as well as future employment. Now when I come to your office, you don't even want to meet me. Your office doesn't even give an acknowledgment to the letters that I submit.

Madam, please take pity on me. My entire life is ruined. I am the sole breadwinner of my family. Please provide me with treatment as otherwise I am terrified that I will become further incapacitated. I also request you to remember the promise of providing me with employment. I request you to implement the assurance that you gave me on the date of the accident.

Thanking you,

Sincerely,

Gollapalli Sekhar"

4. It is the grievance of the petitioner herein that despite the said representation made by him, no action has been taken by the respondent authorities in the direction of redressing the grievance and adhere to the promises made by the respondent authorities.

5. During the course of hearing, the learned counsel for the petitioner has brought to the notice of this Court a letter dated 05.03.2016, addressed by the Superintending Engineer, Kadapa to the District Collector, which shows that the persons responsible namely, N.Rajkumar, Line Inspector and P.Mallikarjun, Junior Lineman have been suspended.

6. It is also brought to the notice of this Court by the learned Standing

Counsel for the respondent organization that vide letter bearing No.DE/O/KDP/3AO/Adm/S2/D.No.520/16, dated 20.04.2016, the Divisional Engineer, Operation, APSPDCL, Cuddapah requested the Superintendent Engineer, Operation, APSPDCL, Cuddapah to consider the possibility of providing employment to the petitioner on outsourcing basis on humanitarian grounds. A copy of the said letter dated 20.04.2016 produced by the learned Standing Counsel is placed on record.

7. In this context it may be appropriate to refer to the judgments of the Hon'ble Supreme Court and this Court on the issue.

8. In the case of ***M.P.ELECTRICITY BOARD v. SHAIL KUMARI AND OTHERS***^[1] the Hon'ble Apex Court at paragraph No.8, held as follows:

“8. Even assuming that all such measures have been adopted, a person undertaking an activity involving hazardous or risky exposure to human life, is liable under law of torts to compensate for the injury suffered by any other person, irrespective of any negligence or carelessness on the part of the managers of such undertakings. The basis of such liability is the foreseeable risk inherent in the very nature of such activity. The liability cast on such person is known, in law, as "strict liability". It differs from the liability which arises on account of the negligence or fault in this way i.e. the concept of negligence comprehends that the foreseeable harm could be avoided by taking reasonable precautions. If the defendant did all that which could be done for avoiding the harm he cannot be held liable when the action is based on any negligence attributed. But such consideration is not relevant in cases of strict liability where the defendant is held liable irrespective of whether he could have avoided the particular harm by taking precautions.”

9. While considering the issue of collapse of Visakhapatnam Port Trust School and consequential death of 13 School going children and the injuries sustained by 36 children, this Court in the case of ***SMT. KOLLI YERUKULAMMA v. THE CHAIRMAN, VISAKHAPATNAM PORT TRUST***^[2] directed the Visakhapatnam Port Trust to provide employment to the permanently disabled children after attaining the eligibility.

10. The material available on record, in clear and unequivocal terms, discloses that the accident took place because of the negligence on the part of the employees of the respondent organization. Unfortunately, a young man of 25 years lost his limbs for no fault of him and he is completely made incapacitated. It is the grievance of the petitioner herein

that no action has been taken by the respondent authorities on the representation dated 14.03.2016. Keeping in view the disciplinary action initiated by the respondent organization against the persons responsible, this Court is of the considered opinion that the ends of justice would be met if the respondent authorities are directed to take appropriate action on the request made by the petitioner in the representation dated 14.03.2016 submitted by the petitioner herein.

11. For the aforesaid reasons, writ petition is disposed of, directing the respondents herein to take appropriate action on the representation dated 14.03.2016 submitted by the petitioner herein, within a period of four weeks from the date of receipt of a copy of this order for providing employment in the respondent organization, if necessary, by placing before the appropriate authority for exemption of Rules also and the respondents shall also provide expenses towards medical treatment of the petitioner. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V. SETHA SAI, J

Date:25.04.2016

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THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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Dated 25th April 2016

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[\[1\]](#) (2002) 2 SCC 162

[\[2\]](#) 1996 (4) ALT 554