

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO
WRIT PETITION Nos.17686 AND 21729 of 2016

COMMON ORDER:

Heard Sri Vedula Venkataramana, learned Senior Counsel appearing for petitioners in W.P.No.17686 of 2016, the learned counsel for the petitioners in W.P.No.21729 of 2016, the learned Government Pleader for Energy for first respondent and Sri G.Vidya Sagar, learned Standing Counsel for Telangana State Transmission Corporation Limited in both the writ petitions.

2. These two writ petitions are being disposed of by this common order as they relate to the preparation of approved list consequent to the notifications issued for filling up of the posts of Assistant Engineers in Electrical, Civil and C.S/I.T by direct recruitment in three electrical companies in the State of Telangana. The applications were invited online from the qualified candidates through the prescribed proforma and the last date prescribed was 15.10.2015. The examination was held on 08.11.2015. In para-V of the notifications, it was specifically stated as follows:

“PARA-V: Important Provisions Governing the Recruitment Process:

1 . **Vacancies:** The Recruitment will be made to the vacancies notified before the examination only. There shall be no waiting list as per G.O.Ms.No.81, General Administration (Ser.A) Department, dt.22.02.1997.

2. **Recruitment:** The Recruitment will be processed as per this notification and also as per the rules and regulations of TSNPDCL existing as on date.”

3. The petitioners are the candidates who applied to the said posts, but their names did not find place in the final selection. When the Government issued a letter No.380/HR.A1/2016-2, dated 01.06.2016, permitting the three electricity companies for operating the merit list downwards for each category by following other rules prescribed in their respective notifications by relaxing provision of calling for the candidates on 1:1 basis for verification of certificates as contained in their notifications as one time option, the above Writ Petitions were filed.

4. The above facts are not in dispute. A counter-affidavit is filed stating as follows:

“6. It is submitted that the State Government decided to provide 9 hours power supply to the farmers and 24/7 power supply to the villages and urban areas. Thus, there is a huge requirement of man power in the technical cadre of Assistant Engineers. Therefore, a notification was issued for recruitment to the post of Assistant Engineers in the year 2015, for which 47,253 persons applied against the 206 posts notified by TSTRANSCO out of which 38,465 appeared

for the written test. However, in terms of G.O.Ms.No.81 selections were made in the ratio of 1:1. Out of which only 147 candidates joined the post.

7. It is submitted that in respect of TSSPDCL and TSNPDCL also number of vacancies remained unfilled in the ratio of 1:1. Therefore, keeping in view the need for Assistant Engineers to cater to the exigencies of work, the Board of Directors in the meeting held on 14-03-2016 resolved to verify the leftover vacancies and address a letter to the State Government with proposals for operating the merit waiting list. The status of vacant posts in TSTRANSCO, TSSPDCL and TSNPDCL are as follows:

S. No.	Name of the post	TSTRANSCO			TSSPDCL			TSNPDCL		
		N	F	V	N	F	V	N	F	V
1	AE/Electrical	184	135	49	201	128	73	159	53	106
2	AE/Civil	22	12	10	-	-	-	3	2	1
3	AE/Computer Science & IT	-	-	-	-	-	-	2	2	0
	TOTAL	206	147	59	201	128	73	164	57	107

The same was communicated to the State Government vide letter dt.31-03-2016.

The State Government vide letter No.380/HR-A.1/2016 dt.16-04-2016 called for detailed remarks for not filling up the vacancies notified in the Recruitment notification of TS Power Utilities. TSSPDCL and TSNPDCL have furnished the list of the vacant posts vide letters dt.28-04-2016 and 22-0-2016 respectively.

8. It is submitted that the State Government after examining the details furnished by the TS Power Utilities issued Letter No.380/hr.a1/2016-2 DT:01-06-2016 relaxing the provisions contained in the notification as a onetime option and permitted the TSTRANSCO, TSSPDCL and TSNPDCL to fill up the left over notified (advertised) vacancies of Assistant Engineers in their respective utility duly operating the merit list downwards for each category by following other rules prescribed in their respective notifications. The decision of the State Government in relaxing the conditions for filling up of notified vacancies is perfectly justified and well within the powers vested in the State Government. The procedure adopted is in the interest of the TS Power Utilities and in the interest of public at large."

5. Thus the communication of the Government is sought to be supported by justifying the appointment of the persons in relaxation of the terms contained in the notification in order to meet the requirements and to have sufficient manpower in power utilities. They tried to explain the letter by stating that G.O.Ms.No.81, General Administration (SER.I) Department, dated 22.02.1997 is applicable only to the vacancies notified before the examination and the power of relaxation is justifiable in the circumstances of the case.

6. The Government issued G.O.Ms.No.81 dated 22.02.1997 regulating the procedure for selection of candidates and discontinuing the operation of waiting list. The Government, after examining the cases decided by the Supreme Court of India in **Gujrat State Deputy Executive Engineers Association v. State of Gujarat**^[1]

and **A.V.Bhogeswarudu v. Andhra Pradesh Public Service Commission** ^[2],

ultimately held as follows:

“9. Therefore, the Government, after careful examination has agreed with the proposal of the Andhra Pradesh Public Service Commission and accordingly direct that henceforth the list of the candidates approved/selected by the Andhra Pradesh Public Service Commission shall be equal in the number of vacancies only including those for reserved communities categories notified by the unit officers. The fall out vacancies if any due to relinquishment and non-joining etc., of selected candidates shall be notified in the next recruitment.”

7. The erstwhile APSEB also issued P.P. (P&G.Per) Ms.No.100, dated 28.07.1997 in consonance of G.O.Ms.No.81 dated 22.02.1997. APSEB Service Regulations framed under Section 79(c) of the Indian Electricity (Supply) Act, 1948 provides for preparation of list of approved candidates and it reads as follows:

“8. Approved Candidates:-

(1) (i) All first appointments to a service and all promotions in a service otherwise than in accordance with Sub-Regulation (a) and (b) of Regulation 24 shall be made by the appointing authority or the authority specified in Sub-Regulation (c) as the case may be from a list of approved candidates. Such list shall be prepared in the prescribed manner by the appointing authority or any other authority empowered in the regulations in that behalf. Where the candidates in such list, are arranged in their order of preference, appointments to the service or promotions therein shall be made in such order.”

8. Thus, it is clear that the procedure for recruitment of the Assistant Engineers is regulated by Rule 8 of APSEB Service Regulations, G.O.Ms.No.81, General Administration (SER.I) Department, dated 22.02.1997 and para-V of the recruitment notification. A combined reading of the above provisions makes it clear that there will be no waiting list and a list of approved candidates shall be prepared in the prescribed manner by the appointing authority. G.O.Ms.No.81 dated 22.02.1997 was specifically issued dispensing with the maintenance of waiting list and in the present notification also it was clearly stated that the said GO would be implemented and there will be no waiting list. Though an argument is advanced now stating that the recruitment would made only to the number of vacancies notified in the notification and no waiting list would be maintained after filling up of those vacancies, a reading of G.O.Ms.No.81 dated 22.02.1997 makes it clear that the vacancies occurred due to relinquishment and non-joining of selected candidates. The tabular statement in the counter-affidavit makes it clear that less number of candidates were selected as per the terms of the notification and some posts remained vacant, except in the case of Assistant Engineer/Computer Science & IT. Now by virtue of

the impugned letter of the Government, the power utility companies want to fill up the vacant posts by drawing the candidates from the merit list already prepared and the said procedure is impugned in the present writ petitions. In view of the clear position, the other averments made in the respective counter-affidavits are omitted.

9. Though the learned Standing Counsel for the power utility companies, Sri G.Vidya Sagar and Sri R.Vinod Reddy, tried to sustain the said process on the ground of requirement of staff and avoiding a further notification, the said plea cannot be accepted in view of the clear term of the notification.

10. The learned counsel Sri N.Subba Reddy submitted that as per APSEB Service Regulations, all first appointments in service shall be made from a list of approved candidates and such list shall be prepared in the prescribed manner by the appointing authority. There cannot be any dispute with regard to the list of approved candidates when read with the terms and conditions of the notification of the selected candidates.

11. In the circumstances, the impugned letter No.380/HR.A1/2016-2 dated 01.06.2016 of the Government relaxing the provision and enabling the power utility companies for operating the merit list downwards for each category, is contrary to the terms of its own notification and also G.O.Ms.No.81 dated 22.02.1997.

12. In view of the same, the writ petitions are allowed and liberty is given to the power utility companies to issue orders of appointment to the selected candidates as per the notification and the remaining vacancies shall be filled up by a fresh notification by operating G.O.Ms.No.81, dated 22.02.1997. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 11.07.2016

TJMR

[\[1\]](#) 1994 Supp. (2) SCC 591

[\[2\]](#) UT 1989 (4) SC 130