

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**

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WRIT APPEAL NO.1256 OF 2008

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J U D G M E N T

(per Hon'ble Sri Justice Sanjay Kumar)

The Central Power Distribution Company of Andhra Pradesh Limited filed this appeal, as the successor-in-interest of the Andhra Pradesh Transmission Corporation, aggrieved by the order dated 07.03.2007 passed in W.P.No.3028 of 2000.

By the said order, the respondents in the writ petition, the appellants before us, were directed by a learned Judge to consider the case of the 1st respondent/1st writ petitioner for regular appointment as a Lower Division Clerk/Typist in accordance with B.P.Ms.No.36 dated 18.05.1997. The competent authority was directed to interview him to decide his suitability for the post and communicate the result thereof to him within two months.

The writ appeal was admitted on 12.12.2008 but the miscellaneous petition filed by the appellants seeking suspension of the order under appeal was dismissed. We are now informed by Sri G.Vidyasagar, learned senior counsel for the appellants, that the 1st respondent/1st writ petitioner was appointed pursuant to the order under appeal and is presently working.

The parties shall be referred to hereinafter as arrayed in the writ petition.

The four petitioners sought regularization of their services in terms of B.P.Ms.No.36 dated 18.05.1997. However, during the hearing of the writ petition, petitioners 2 to 4 sought leave to withdraw from the case reserving liberty to avail alternative remedies. They were accordingly so permitted and the writ petition was dismissed as withdrawn with liberty in so far as they were concerned. The learned Judge thereupon dealt with the case of the 1st petitioner.

Having considered the material on record, the learned Judge found that the 1st petitioner possessed the qualification of graduation and was eligible to be considered for appointment to the post of Lower Division Clerk/Typist. The learned Judge held that his 'contract labour' status was proved by Exs.P.4 to

P.7 service certificates, which were duly countersigned by the officers of the respondent organization. It was on this basis that the learned Judge concluded that the 1st petitioner was eligible for regular appointment in terms of B.P.Ms.No.36 dated 18.05.1997 and accordingly allowed the writ petition, in so far as he was concerned, with directions.

Sri G.Vidyasagar, learned senior counsel, would however contend that the learned Judge failed to note certain crucial aspects of the matter. He would assert that B.P.Ms.No.36 dated 18.05.1997 required the person concerned to possess the prescribed educational qualification at the time of his first appointment but the 1st petitioner did not satisfy this requirement as he acquired the educational qualification only after his initial appointment as is borne out by the provisional certificate dated 28.08.1993 issued by Dr.B.R.Ambedkar Open University. This certificate confirmed that the 1st petitioner passed the examination held in April, 1993. The 1st petitioner's initial appointment was in March, 1993, a month before he acquired the qualification. It is on this basis that Sri G.Vidyasagar, learned senior counsel, would contend that the 1st petitioner failed to comply with the requirements of B.P.Ms.No.36 dated 18.05.1997, contrary to the finding of the learned Judge in the order under appeal.

However, perusal of the relevant Clause in B.P.Ms.No.36 dated 18.05.1997 indicates otherwise in so far as the aspect of educational qualifications is concerned. This Clause reads as under:

‘5. The guidelines for selection of the candidates from the above categories shall be as follows:

a) Age:

b) Educational Qualifications: Educational Qualifications shall be as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of educational qualifications or other relevant technical qualifications which are prescribed in the service regulations for such appointment.

c) Seniority:’

The aforesaid Clause merely indicates that the educational qualification would be as per the Board's regulations in force at the time of the first engagement and that there would be no relaxation of such qualification for

appointment. This Clause, on the face of it, does not indicate that the employee concerned should possess the qualification at the time of the initial appointment itself. Once the employee concerned possesses the qualification at the time of consideration of his case under B.P.Ms.No.36 dated 18.05.1997, there would be no difficulty. In the present case, the 1st petitioner acquired the qualification just one month after his initial appointment. That apart, the order under appeal was given effect to long ago and the first petitioner has been in regular service all these years.

Given the aforestated facts, we find no grounds made out warranting interference with the order under appeal.

The writ appeal is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

DR. B.SIVA SANKARA RAO, J

20th JUNE, 2016

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