

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO
WRIT PETITION Nos.22515 of 2013, 24797 of 2015 & 22633 of
2016

COMMON ORDER:

All these three writ petitioners are being disposed of by this common order as the petitioner is common and the cause of action for filing the writ petitions is the termination of services of the petitioner.

2. Heard the learned counsel for petitioner and the learned Standing Counsel for respondents in all the writ petitions.

3. Admittedly the petitioner was engaged by a licensed contractor of the respondents, A.P. Southern Power Distribution Corporation Limited, as a Shift Operator on 01.05.2007 in 33/11 KV Sub-station, Gollapalli. While so, on 18.-5.2013, the petitioner was arrested for the offence punishable under Section 379 IPC. He was also involved in several other cases. When it came to the notice of the fourth respondent, as per the instructions of the second respondent, the petitioner was removed from service. Challenging his removal, he filed W.P.No.22515 of 2013. Thereafter, the petitioner was acquitted in all the criminal cases. Later, when the representation of the petitioner dated 11.06.2015 for his reinstatement was not considered, he filed W.P.No.24797 of 2015. In the said writ petition, this Court by order dated 07.08.2015, directed the respondents to consider the representation of the petitioner dated 11.06.2015 and pass appropriate orders within a period of eight weeks. Pursuant to the said direction, when the Divisional Engineer (Operations), Gudur passed an order on 29.09.2015 rejecting the request of the petitioner, he filed W.P.No.22633 of 2016.

4. The impugned order in W.P.No.22633 of 2016 reads as follows:

“ in view of the orders of Hon'ble High Court dated 07.08.15 vide WPMP.No.32194 of 2015 in W.P.No.24797 of 2015 your representation is considered as follows:

1. Sri T.Rama Mohan, Contractor entered into an agreement with Divisional Engineer Operation, Gudur for maintenance of 33/11 KV SS Gollapalli under LS AGT No.35/2007-08 for a period of 11 months and subsequently extended from time to time upto June, 2014. The said contractor engaged you as shift operator. The said contractor removed you due to your involvement in the criminal case.

2. Our department never appointed you as shift operator and there no relationship of Employee and Employer between you and the department. As you are not Employee of the department, the question of your reinstatement as shift operator does not arise.”

5. A perusal of the above makes it clear that the petitioner was engaged as Shift Operator by the Contractor and that the Department never appointed him as Shift Operator. The Department disowns the relationship of employer and employee with the petitioner.

6. The learned counsel for the petitioner submits that the petitioner was removed from service due to his involvement in criminal cases, but for such involvement, he would have continued. In the absence of any relationship of employer and employee between the petitioner and the respondents, this Court cannot issue any direction to the official respondents to re-engage the petitioner. If any Contractor engages the petitioner, it is always open to the petitioner to approach such Contractor for re-engagement.

7. Giving such liberty, these writ petitions are dismissed. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 21.07.2016
TJMR