

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 21401 OF 2007

AND

CONTEMPT CASE No. 671 OF 2011

COMMON ORDER:

Though the Writ Petition has been filed by the petitioners, 11 in number, claiming to have been working as drivers in the regular vacancies in the respondent Eastern Power Distribution Company Limited (for short, 'EPDCL'), as on today, according to the Memo dated 26.12.2016 filed on behalf of the respondents, only the services of petitioners No. 3, 4, 7 and 11 are being utilized.

In this Writ Petition, the petitioners have challenged the proceedings of the 3rd respondent dated 31.08.2007, by which it had been informed that whenever regular recruitment takes place, their cases would be considered based on the policy of the management of EPDCL, subject to their eligibility. A consequential direction has also been sought for to the respondents to consider their cases for absorption/appointment as L.M. Drivers in view of their length of service in Operation Circle of APEPDCL, Eluru.

The case of the petitioners is that they have been working in the respondent organization, whereas, it is the categorical assertion on behalf of the respondents that the petitioners are only working under the contractors and that they are being paid minimum rates of wages as notified from time to time. The said submission is not denied by the petitioners.

In this context, it is to be noted that, all through, the petitioners were being engaged through various contracting

agencies for driving the vehicles of the respondent EPDCL. Hence, seeking their absorption/appointment as L.M. Drivers, on an earlier occasion, the petitioners approached this Court by way of Writ Petition No. 8975 of 2005. *Vide* orders of this Court dated 30.11.2006, the said Writ Petition was disposed of in terms of the judgment dated 22.06.2004 of the Division Bench of this Court in Writ Appeal No. 181 of 2001, whereunder, taking into consideration the specific assertion on behalf of the respondents that there are no regular vacancies to the post of drivers in their organization, it has been directed that the respondents should consider the cases of the petitioners/drivers for absorption whenever regular vacancies arise, subject to their eligibility. But, surprisingly, the 3rd respondent issued the order dated 31.08.2007, which necessitated filing of this Writ Petition.

This Court on 21.02.2008 directed the respondents to consider the cases of the petitioners for absorption/appointment as L.M. Drivers, in view of their length of service. However, subsequently, the said order was dissolved by order dated 27.04.2009. Thereafter, on 27.04.2011, this Court, again, entertaining W.P.M.P.No. 14720 of 2011, passed an interim order to absorb the petitioners as drivers as was done in the case of the petitioners in Writ Petition No. 359 of 2007. Complaining wilful disobedience of the said order on the part of the respondents, the petitioners have filed Contempt Case No. 671 of 2011.

Heard learned counsel for the petitioners.

Learned Senior Counsel *Sri G. Vidya Sagar* appearing on behalf of the respondent EPDCL would submit that there are no

sanctioned posts of driver and on account of Reorganization of the State as well the respondent Company, keeping in view the fiscal ability, as of now, the services of private vehicles are being utilised wherever there is actual requirement, on hire basis. However, it is submitted that the Chairman & Managing Director of AP TRANSCO has addressed the Government by letter dated 30.06.2006 seeking sanction of 147 posts of Junior Lineman Driver. If the Government considers sanctioning of posts, the cases of the petitioners, who are in service as of date, would be considered in terms of the Order of the Division Bench in Writ Appeal No. 181 of 2001.

This Court, under Article 226 of the Constitution of India, cannot create posts nor can stretch its jurisdiction to direct the government to create posts. However, in view of the submissions made by the learned Senior Counsel and also keeping in view the Order dated 30.11.2006 passed by this Court in Writ Petition No. 8975 of 2005, it is directed that the cases of the petitioners be considered in any suitable posts, if not the driver posts, subject to their eligibility.

It is also the matter of record that at one point of time, the petitioners were offered the posts of watchman, but however, petitioner No.1 refused to accept the same. Now, the learned counsel for the petitioners submits that the 1st petitioner is willing to joint in the post of Watchman. On instructions, the learned Senior Counsel submits that the said petitioner may approach the Superintending Engineer, who shall consider his case subject to availability of vacancy at this point of time.

The Writ Petition, with this Order, stands disposed of. No costs.

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In view of the above-said order passed in the Writ Petition, nothing survives for adjudication in this Contempt Case and it is accordingly, closed.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

26th December 2016

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