

HON'BLE SRI JUSTICE A.V.SESHA SAI
WRIT PETITION No.27807 of 2011

ORDER:

In the present Writ Petition, challenge is to the action of respondents in not extending the benefit of service weightage to the petitioner, resulting in non-consideration of his case for the post of Trainee Sub-Engineer (Electrical) pursuant to the employment notification No.4/CGM/(Adm)/2010, dated 03.01.2011.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent- Corporation.

According to the petitioner, he was appointed on contract basis as a Site Engineer in the fourth respondent – Project, vide letter dated 26.06.2009, issued by the Project Manager, A.P. Power Development Company Limited. The A.P. Power Development Corporation Limited (Vidyut Soudha) (first respondent herein) issued a recruitment notification dated 03.01.2011 for filling up as many as 350 posts of Trainee Sub-Engineers. In the present Writ Petition, we are concerned with Zone-IV. According to the notification, 32 posts were notified from the electrical branch. As per paragraph 5 of the notification, the qualification prescribed for Trainee Sub-Engineers (Electrical) is a diploma in Electrical and Electronics Engineering or its equivalent as on 01.01.2011. Paragraph 7 of the notification prescribes the selection procedure. Paragraph 7(a)(b)(iii) stipulates service weightage to the contract labour worked in Power Generating Stations of A.P.Genco. According to the same, the candidates, who did put up more than six months service are given 10 marks weightage, and those, who completed less than six months

service are given 5 marks weightage.

Written examination, as scheduled, was conducted on 27.02.2011, and the respondent – Corporation published a list of candidates for certificate verification for Zone-IV, and a copy of the same is filed, along with the material papers, which shows that the respondents have given 10 marks weightage to the petitioner as an inservice candidate. The respondent – Corporation published a list of selected candidates asking to appear before the Chief General Manager (Adm) on 12.10.2011 and 13.10.2011. In the said list of selected candidates, the name of the petitioner did not find place and, with the result, the petitioner herein submitted a representation dated 07.10.2011, wherein he stated that he came to know that the service weightage benefit extended to him was withdrawn, and further requested the respondents to do needful in the matter. In the above background, assailing the action of the respondents in withdrawing the benefit of service weightage as illegal, arbitrary and violative of principles of natural justice and Articles 14 and 16 of the Constitution of India, the present Writ Petition came to be instituted.

This Court, by an order dated 11.10.2011, directed the respondents to keep one post, in Zone-IV under O.C. category, vacant. Subsequently, this Court issued rule nisi on 19.11.2014. In response to the rule nisi issued by this Court, a counter affidavit, denying the averments in the affidavit filed in support of the Writ Petition and justifying the impugned action has been filed on behalf of respondents.

It is contended by the learned counsel for the petitioner that the action of withdrawing the benefit of service weightage to the petitioner is highly arbitrary, illegal, discriminatory and violative of Articles 14 and 16 of the Constitution of India. It is further

submitted that the reasons assigned by the respondents, in their counter, for denying the benefit to the petitioner herein are neither sustainable nor tenable nor can stand for twin tests of reasonableness and rationality. It is the further submission of the learned counsel that Vadarevu Thermal Power Project Limited (fourth respondent) is under the control of the first respondent – Corporation and there is absolutely no rationale behind denying the benefit to the petitioner. It is further submitted that, though the petitioner has been working since 02.07.2009, no gate-pass was issued to him, but the petitioner herein produced work experience certificate issued by the Project Manager, A.P.Power Development Company Limited. It is the further submission of the learned counsel, that merely because the petitioner is not part of the Provident Fund Scheme, the same would not affect the work experience put in by him, and the condition of providing gate pass and EPF account slip is ex facie unrelated to work experience. It is further contended that the fourth respondent has been transferred from A.P. Power Development Company Limited to A.P.Genco. It is also the submission of the learned counsel that the action of respondents is discriminatory as they considered the case of one Sri V.Raghunath Reddy who was working under a contractor. It is his further submission that the respondents considered the case of Sri V.Raghunath Reddy and appointed him despite similar deficiencies. It is also the submission of the learned counsel for the petitioner that the respondents extended similar service weightage benefits to those who worked in Rayalaseema Thermal Project. In fact, it is also the submission of the counsel that the said individual, viz.

Sri V.Raghunath Reddy, was working in A.P. Power Generation Corporation Limited and not in Rayalaseema Thermal Power

Project, a similarly placed organization. It is also the submission of the learned counsel for the petitioner that the respondents allowed service benefits to contract labour working in similarly situated organization viz. Sri Damodaram Sanjeevaiah Thermal Power Station.

On the contrary, it is vehemently contended by the learned Standing Counsel for the respondents that there is absolutely no illegality nor there is any discrimination on the part of respondents, and the impugned action is strictly in accordance with the notification issued. It is also the submission of the learned Standing Counsel that no service weightage can be extended to the petitioner as he was not working in any power generating stations of A.P.Genco.

In the above background, now the issue that boils down for consideration is whether the respondents are justified in declining to extend the benefit of service weightage to the petitioner?

The information available before this Court categorically discloses that, in the list of candidates for certificate verification, short-listed by the respondents, the name of the petitioner was also included and weightage marks of 10 was also been awarded in his favour but, in the final select list, the respondents did not include the name of the petitioner, obviously, only on the ground that he did not work in any one of the power generating stations of A.P. Genco. Particularly, there are two objections raised by the respondents in the present Writ Petition viz. (i) non-production of gate-pass and EPF contribution slip as per the notification; and (ii) the A.P. Power Development Company Limited is a joint venture company and not power generating station of A.P.Genco. There is absolutely no dispute with regard to the reality that the petitioner herein produced work experience certificate issued by the fourth

respondent to show that he has been working as a Site Engineer in fourth respondent – Project since July, 2009. It is also required to be noted that the respondents herein extended the service weightage benefit to contract labour working in Rayalaseema Power Project and also Sri Damodaram Sanjeevaiah Thermal Project and the said categorical statement of the petitioner, in the pleadings, is not denied by the respondents. It is also significant to note that the respondents herein appointed one Sri V.Raghunath Reddy in Rayalaseema Thermal Power Project though he worked under a contractor. Undoubtedly, as rightly pointed out by the petitioner, the petitioner stands on a better footing. In fact the information made available by the writ petitioner before this Court, which according to him obtained under the Right to Information Act, clearly and categorically discloses that despite similar deficiencies on the part of

Sri V.Raghunath Reddy, the respondents herein appointed him. In the case of Sri V.Raghunath Reddy also, he did not produce details of wages/muster register of the circle nor EPF number nor EPF challan No. & Dt. nor the gate pass issued by the security officer. So, despite the said deficiencies, the respondents issued appointment order in favour of

Sri V.Raghunath Reddy. Therefore, this Court finds absolutely no justification in not extending the benefit of service weightage to the petitioner which was, in fact, given initially, as evident from the list of candidates on verification of certificates. Therefore impugned action is highly discriminatory and cannot be approved by this Court nor the same can be regarded as a reasonable approach. When the respondents considered the cases of candidates working in similar organizations like Sri Damodaram Sanjeevaiah Thermal Project and Rayalaseema Power Project, this Court does

not find any justification on the part of respondents in denying the same benefit to the petitioner herein.

For the aforesaid reasons, the Writ Petition is allowed directing the respondents to consider the case of the petitioner for the post of Trainee Sub-Engineer (Electrical) by giving service weightage, as per employment notification dated 03.01.2011, and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI,J

Date: 15.06.2016
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