

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.3996, 4008 & 4320 of 2010

DATED : 31.10.2017

W.P.No.3996 of 2010 :

Between :

Kota Rajalingam S/o.Somaiah,
Aged about 30 yrs,
Working as Sub-Station Operator (Contract basis),
33/11KVSS, Kodakandla Mandal,
Mahaboobabad Division, Warangal District & Others.

.. Petitioners

And

The Northern Power Distribution Company of A.P. Ltd.,
Rep., by its Chairman & Managing Director,
Opp : REC Petrol Pump, Hanamkonda,
Warangal & another.

.. Respondents

W.P.No.4008 of 2010 :

Between :

K.Sathish S/o.Komaraiah,
Aged about 29 yrs,
Working as Sub-Station Operator,
132/33KVS, Chelpur Substation,
Ghanpur Mandal, Warangal District.

.. Petitioner

And

The Northern Power Distribution Company of A.P. Ltd.,
Rep., by its Chairman & Managing Director,
Opp : REC Petrol Pump, Hanamkonda,
Warangal & another.

.. Respondents

W.P.No.4320 of 2010 :

Between :

Macha Somaiah S/o.Yakaiah,
Aged about 25 yrs,
Working as Sub-Station Operator (Contract basis),
33/11KVSS, Chinnavangara Village,
Thorrur Mandal, Warangal District & Others.

.. Petitioners

And

The Northern Power Distribution Company of A.P. Ltd.,
Rep., by its Chairman & Managing Director,
Opp : REC Petrol Pump, Hanamkonda,
Warangal & another.

.. Respondents

This court made the following :

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WRIT PETITION Nos.3996, 4008 & 4320 of 2010

COMMON ORDER :

Heard.

2. Petitioners in all the writ petitions were engaged as Sub-Station Operators on contract basis. In W.P.No.3996 of 2010 the petitioners claim that they were engaged as Sub-station Operators with effect from 25.05.2001, 16.10.2001 and 19.12.2004 respectively. Petitioner in W.P.No.4008 of 2010 was engaged with effect from 01.06.2005 and petitioners in W.P.No.4320 of 2010 were engaged with effect from 11.02.2004, 11.02.2004, 05.06.2005 and 25.04.1999 respectively. On 08.06.2006, a recruitment notification was issued to the post of Junior Linemen and a revised notification was issued on 20.10.2006. Apart from several other conditions, in Para 6 (iv) (c) of the revised notification it was stipulated that if more than one contract labour apply for the post, the contract labour with earlier date of birth would be given preference for selection. This condition was subject of challenge before this Court in several writ petitions. Learned Single Judge of this Court has set aside the notification itself and direction was issued to conduct fresh selections. Aggrieved thereby the management preferred W.A.No.1434 of 2008 & batch. The batch of writ appeals were disposed of, by judgment dated 10.11.2009. The Division Bench took note of the undertaking given by the Distribution Company and directed the company to appoint all the respondents/writ petitioners who have submitted their applications pursuant to the notification dated 08.06.2006 and on

subsequent dates who have passed the pole climbing test, fulfilling other eligibility criteria for appointment without reference and without insisting for fulfilment of condition No.6 (iv) (c) of the revised notification dated 20.10.2006. The Division Bench further directed application of said directions to all similarly situated persons, even if they have not invoked the jurisdiction of the High Court. Petitioners contend that in pursuant to the judgment of the Division Bench, they submitted representations. But the same were not acted upon and though they were qualified and fulfilled all the requirements they were not appointed. Aggrieved thereby these writ petitions are filed. Petitioners seek direction to the respondents to issue the order of appointment to the post of Junior Lineman as directed in W.A.No.1434 of 2008 & batch.

3. Learned counsel for the petitioners submit that as petitioners are more meritorious, they ought to have been appointed while giving effect to the judgment of the Division Bench and not appointing them is *ex-facie* illegal. The claim of the petitioners for appointment in pursuant to the notification issued, as referred to above, amounts to arbitrary exercise of power and authority and denial of their rightful claim for employment without any justification.

4. In the counter affidavit filed on behalf of the respondent-Distribution Company, it narrates the steps taken by them in pursuant to the direction issued by the Division Bench. According to the averments in para No.4, a revised merit list was drawn in accordance with the directions of the Division Bench and in the said revised merit list, petitioners secured less marks than the

marks secured by the last meritorious candidate of the respective categories. Therefore, petitioners are not entitled to claim employment.

5. Learned counsel for the respondents reiterate that the case of the petitioners was considered and since they were not found suitable for selection to the available vacancies, they were not selected.

6. The averments made in the counter affidavit filed on behalf of the respondents would disclose following facts. The first petitioner in W.P.No.3996 of 2010 belongs to BC-D category. The last candidate in the said category secured 84.46% marks compared to 68.15% marks secured by the first petitioner; the second petitioner belongs to schedule caste category. The last candidate selected under this category secured 80.46% marks compared to 75.08% secured by the second petitioner; and the third petitioner belongs to BC-B Category and marks secured by the last meritorious candidate belonging to this category was 83.69% as against 79.54% secured by the third petitioner.

7. The petitioner in W.P.No.4008 of 2010 belongs to schedule caste category possessing ITI qualification. The last selected candidate secured 80.46% marks, whereas, petitioner secured 80.15%. Infact he was also given speaking order on 04.05.2010 informing him of his non-selection.

8. In W.P.No.4320 of 2010 there are four petitioners. As per the averments made in para 4 of counter affidavit, the first petitioner was found to be meritorious and was already selected. This fact was noticed by this Court in W.V.M.P.No.2359 of 2010 and by

order dated 29.07.2010, the writ petition was dismissed against the first petitioner, as he was already appointed. With reference to second petitioner, it is stated that he has not succeeded in the pole climbing test. Since he was not qualified it cannot be said that non-selecting him amounts to arbitrary exercise of power. The third petitioner belongs to BC-D category and in this category the last meritorious candidate secured 84.46% marks as against 78.92% marks secured by third petitioner. In so far as, fourth petitioner is concerned, he belongs to open category and he secured 80.925% marks, whereas the last person selected against open competition secured 82.15% marks.

9. The averments made in the respective counter affidavits are not denied. That being so, it cannot be said, that the petitioners were ignored even though they secured more merit. Therefore, the relief as sought for by the petitioners to direct the respondents to appoint them as junior linemen, merely, because they were also eligible, merits no consideration. No case is made out for interference by this Court, and the writ petitions are liable to be dismissed.

10. Accordingly, the Writ Petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO,J

31st October 2017
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