

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.3017 of 2000

ORDER:

Heard the learned counsel for the petitioner. None appears for the respondents even though the name of Smt. K.Udaya Sree is printed in the cause list.

2. Petitioners in this Writ Petition have assailed the action of the respondents in providing their junior's higher scale of pay than is being paid to the petitioners with effect from 01-04-1974 and seek the pay fixation as per the order dt.26-04-1999 in W.P.No.25353 of 1998 and order dt.06-11-1992 in W.P.No.10869 of 1984.

3. Petitioners were working as L.D.Cs./Typists/Stenos in the erstwhile A.P.TRANSCO and were appointed prior to 01-04-1974 and they are not graduates. They contend that BP Ms.219 dt.14-03-1977 was issued fixing scales of pay to the persons holding these posts and other posts also, and that the A.P.TRANSCO had given higher starting pay of Rs.324/- to the persons appointed in these posts after 01-04-1974 from the time of their appointment while paying the petitioners only Rs.268/-. They contend that this action of the respondents in fixing the higher initial starting pay to their juniors is arbitrary, discriminatory and illegal and that since all of them were doing work of similar nature irrespective of their educational qualification whether graduate or non graduate, their initial starting pay also should be the same. They contend that they made several

representations to three respondents requesting them to revise and refix their pay on par with their juniors at Rs.324/- with effect from 01-04-1974 but the respondents have not done anything.

4. They contend that similar issue was raised in W.P.No.10869 of 1984 which was disposed of on 06-11-1992 and it was held in that case that there cannot be any distinction between Lower Division Clerk graduates or non-graduates and that only one scale of pay has to be fixed for all.

5. In the counter affidavit filed by respondent Nos.2 and 4, it is contended that prior to 11-07-1974, minimum qualifications prescribed for appointment to the post of L.D.Cs./Typists was only Matriculation/S.S.L.C., which were equivalent qualifications, but subsequently, minimum educational qualification to hold the post of L.D.C. was fixed as 'graduation' with effect from 11-07-1974 and that the petitioners are non graduates appointed prior thereto. While admitting that the scale of pay of employees of the erstwhile Electricity Board was revised with effect from 01-04-1974 vide BP.Ms.No.219 dt.14-03-1977, it is stated that the scale of pay of L.D.Cs/Typists was Rs.250-8-274-10-454 and since the minimum qualification prescribed was graduation, higher starting pay for graduates allowed earlier was dispensed with. It is contended that the petitioners who were appointed prior to 11-07-1974 were non graduates and possess qualification such as S.S.C. and are senior to graduate L.D.Cs., but they cannot seek parity in pay. Reliance is

placed on Regulation 34 (b) of the A.P.S.E.B. Service Regulations Part-I which states as under:

“Notwithstanding anything contained in these Regulations or any other Regulations of the APSEB where a Bd’s employee who is junior receiving emoluments i.e. excess of those paid to persons personal to him, and also arising out of fixation of pay by virtue of holding office in a particular post of the establishment under the Board, such factor alone shall not entitle the seniors to claim refixation of their emoluments at a higher level on par with the emoluments of the junior employees.”

6. It is also stated that in the Memo dt.17-11-1978, the erstwhile A.P.S.E.B. issued clarification that the benefit extended in memo dt.20-08-1997 should not be held applicable to the cases where higher starting pay were given in the time scale for possessing graduate qualification; and consequent on the issue of such clarification, the pay fixation of the senior non graduation L.D.Cs. whose increments were preponed as per memo dt.20-08-1977 was cancelled.

7. It is stated that in W.P.No.10869 of 1984, filed by persons such as the petitioners, on 06-11-1992, this Court cancelled memo dt.17-11-1978 but upheld the memo dt.20-08-1977 and that later another memo dt.24-01-1986 was issued directing that pay of senior can be stepped up duly preponing his increment on par with his junior whether such junior is a graduate or non graduate subject to the senior drawing more or equal pay prior to 01-04-1974; both juniors and seniors pay should be fixed at the same stage with the revised pay

scales on 01-04-1974 and the junior should draw higher pay due to his normal increment if it accrues earlier to the increment date of senior.

8. They contend that there is no provision in the memo for protection of pay of the senior on par with the pay of junior who is drawing higher pay on 01-04-1974 by virtue of higher qualification, and that the petitioners are not entitled for fixation of their pay on par with the pay of the juniors who were drawing higher pay due to higher start allowed earlier by virtue of their graduate qualification.

9. I have noted contentions of both sides.

10. In orders dt.20-03-2014 in W.P.No.2426 of 1997 and batch and order dt.14-11-2007 in W.P.No.4500 of 1999, cited by learned counsel for petitioners, it was held that there should not be any anomaly in the pay scales of graduate L.D.Cs. and non-graduate L.D.Cs. and that the petitioners therein are entitled for pay fixation on par with junior graduate L.D.Cs. in terms of the order dt.06-11-1992 in W.P.No.10869 of 1984 and order dt.15-02-2008 in W.P.No.1729 of 1999.

11. Therefore following the said decision, Writ Petition is allowed and the respondents are directed to consider the case of the petitioners in terms of orders dt.06-11-1992 in W.P.No.10869 of 1984 and order dt.15-02-2008 in W.P.No.1729 of 2009 and if they are found eligible for revision and re-fixation of pay, they shall pass

appropriate orders in accordance with law and communicate their decision to the petitioners within eight (8) weeks. No costs.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-08-2017

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