

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.3498 OF 2007

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not promoting the petitioners on par with their juniors i.e., 4th and 5th respondents as arbitrary, illegal and violative of B.P.Ms.No.16 dated 9.1.2006 and further to direct the respondents to promote the petitioners as Assistant Divisional Engineers on par with their juniors i.e., 4th and 5th respondents, with all consequential benefits.

Heard Sri Srinivasa Baba, counsel for the petitioners and Smt.K.Aruna, Standing Counsel for A.P. Genco and Smt.A.Deepthi, Standing Counsel for Telangana Genco.

The case of the petitioners is that they belong to scheduled caste community and they were appointed as Trainee Assistant Engineers on 5.9.2000 and their probation was declared with effect from 28.1.2003 and 7.8.2003 respectively. The next promotional post is Assistant Divisional Engineer (Electrical). As per Andhra Pradesh State Electricity Board Service Regulations, for promotion to the post of Assistant Divisional Engineer, one must possess B.E. Degree Electrical or Civil or Mechanical or Telecommunication as the

case may be or any qualification recognized as equivalent thereto and must have served as Assistant Engineer for a period of not less than five years.

It is the further case of the petitioners that the 1st petitioner met with an accident on 22.12.2003 and the 2nd petitioner suffered with Malaria, Typhoid and Jaundice during the period from 3.6.2001 to 7.8.2001, and the petitioners had applied for medical leave and extra-ordinary leave, and the said leave was sanctioned. The competent authority had regularized the period during which the petitioners were on medical leave and extra-ordinary leave and the case of the petitioners was considered for sanctioning increment by counting the period of medical leave and extraordinary leave.

The grievance of the petitioners is that they are entitled for promotion as Assistant Divisional Engineers (Electrical) with effect from 29.1.2006 and 12.6.2006 respectively i.e., completion of five years of qualifying service, but the respondents, instead of considering their cases for promotion, had considered the case of unofficial respondents 4 and 5, who are immediate juniors to the petitioners, for promotion to the post of Assistant Divisional Engineers. Hence, the petitioners filed this Writ Petition.

It is submitted by the learned counsel for the petitioners that the petitioners were promoted as Assistant Divisional Engineers in the subsequent panel, but they were not promoted on par with their immediate juniors i.e., respondents 4 and 5. The petitioners had submitted several representations to the respondents seeking promotion as Assistant Divisional Engineers on par with their juniors, but the respondents had not passed any orders on such representations.

It is submitted by the learned Standing Counsel for the official respondents that no prejudice has been caused to the petitioners as their cases were considered in the subsequent panel for promotion to the post of Assistant Divisional Engineers immediately after completion of five years of service and their cases cannot be considered for promotion on par with their juniors.

I have considered the rival submissions made by the parties. The qualifications which are set out at Annexure-III of Andhra Pradesh State Electricity Board Service Regulations, would indicate that for promotion to the post of Assistant Divisional Engineer, apart from educational qualification, the requisite qualification is that a person must have served as Assistant Engineer for a period of not less than five years. The

qualification does not stipulate as to whether physical service of five years is necessary or five years service as a whole is necessary, for promotion. Further, the official respondents had regularized the period during which the petitioners were on medical leave and extra-ordinary leave and sanctioned increments to the petitioners. Under such circumstances, I do not see any reason as to why the cases of the petitioners should not be considered for promotion to the post of Assistant Divisional Engineers on par with their juniors.

Hence, this writ petition is disposed of directing the official respondents to consider the cases of the petitioners for promotion to the post of Assistant Divisional Engineers on par with their immediate juniors i.e., respondents 4 and 5 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

ABHINAND KUMAR SHAVILI ,J

Date: 12.12.2017

KPM