

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.13355 OF 2010

Dated:28.11.2017

Between:

G. Nagabushanam, S/o. G. Sanjeevu,
Aged 35 years, Occ: Lineman,
O/o. Asst. Engineer (O), APSPDCL.,
Rurals-1, Kadapa

.. Petitioner

And

The Southern Power Distribution Company
of A.P. Limited, rep., by its Divisional
Electrical Engineer (O), Kadapa and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

2. Petitioner joined in the respondents - Company as Junior Lineman in the year 1996 under Schedule Tribe category. Thereafter, he was promoted as Assistant Lineman in the year 2000 and Lineman on 04.07.2005. He passed Intermediate and Diploma in I.T.I. (Mechanical). He was aspiring for promotion as Line Inspector and claimed promotion against the vacancy earmarked to be filled up for Schedule Tribe category by applying the principle of reservation in promotion against Roster Point meant for Schedule Tribes. In this Writ Petition, petitioner is seeking declaration that the action of the respondents in not implementing the principle of reservation in promotions as per the policy formulated by the Government and notified vide G.O.Ms.No.2, dated 09.01.2004, as arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India and to direct the respondents to consider the case of the petitioner for promotion to the post of Line Inspector against Roster Point No.25 with effect from due date.

3. The factual matrix of the case is when jurisdiction of Kadapa Division was large, there were 34 posts of Line Inspectors. In terms of reservation in promotions for Schedule Tribes, two posts are to be given for Schedule Tribes against Roster Point No.8 (meant for women) and roster point No.25. Some time in the year

2006 or thereof, a new Division was established by carving out from Kadapa Division i.e., Kadapa and Pulivendula. After establishment of separate Pulivendula Division, out of 34 posts of Line Inspectors, 22 posts were allotted to Kadapa Division and 12 posts were allotted to Pulivendula Division. After bifurcation, only one post is meant to be filled up by Schedule Tribe in each of these two Divisions. However, two posts were available for Schedule Tribes before bifurcation of the Division.

4. Learned counsel for the petitioner contends that petitioner was appointed prior to 2006 when Kadapa Division was one unit and therefore the petitioner ought to have been considered against Roster Point No.25 and not considering his case against Roster Point No.25, is illegal. By referring to the averments in the counter affidavit, he would contend that on the ground that adequacy was achieved, Roster Point No.25 was filled up by O.C. candidate and the same is illegal and the same ought to have been given to the petitioner.

5. Learned Standing Counsel for the respondents submits that senior to the petitioner belonging to the Schedule Tribe category is working in the Line Inspector cadre. Thus, there is no vacancy which is required to be filled up by applying the principle of reservation.

6. From the facts on record and from the contentions of learned counsel for the petitioner, it is clear that after bifurcation, Kadapa Division has 22 posts of Line Inspectors. Petitioner belongs to Kadapa Division. As per the principle of reservation in promotions,

only one post is now available in Kadapa Division for Schedule Tribes.

7. The claim of petitioner is based on the assumption that since in the combined unit, there were two Roster Points earmarked for Schedule Tribes and therefore Roster Point No.25 ought to have been given to the petitioner in Kadapa Division. The said assumption is fallacious. After bifurcation, there are two separate units i.e., Kadapa and Pulivendula Divisions and in Kadapa Division, according to the principle of reservation in promotion for Schedule Tribes, only one post can be given to a Schedule Tribe candidate and a senior to the petitioner is already working in said category.

8. According to the policy of the Government on principle of reservation in promotions for Schedule Tribes, reservation can be applied till adequacy of representation in favour of Schedule Tribes is achieved. Once adequacy is achieved, there is no need to follow the principle of reservation. Against the cadre strength of Line Inspector in Kadapa Division, only one post can be given to Schedule Tribe and one senior to the petitioner is already working in the cadre. Thus, the adequacy principle is already achieved. Hence, I do not see any error in the decision of the respondents in diverting Roster Point No.25 to open competition candidates. It is not the case of petitioner that person who is now appointed against Roster Point No.25 in Kadapa Division is junior to petitioner. Thus, merely because petitioner belongs to Schedule Tribe, he cannot be appointed against Roster Point No.25, when principle of adequacy is already achieved. It is appropriate to note, at this

stage, that the promotion granted to the O.C. candidate against Roster Point No.25 in the year 2008 is not under challenge. It is also appropriate to note that the petitioner was not eligible for promotion before the unit was bifurcated. Thus, I do not see any illegality in not granting promotion to the petitioner against Roster Point No.25.

9. At this stage, learned counsel for the petitioner submits that petitioner may be granted liberty to make representation. It is needless to observe that if the petitioner has any subsisting grievance for promotion, the order now passed does not come in the way of ventilating his grievance before the competent authority.

10. The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

Date:28.11.2017

KH

P. NAVEEN RAO, J