

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.25111 of 2012

Dated:14.02.2017

Between:

T. Satish, S/o. Prakasham,
Aged about years,
Occ: CJLM (under orders of termination),
O/o. the DEE, APEPDCL, Operations,
Bobbili, Vizianagaram District .. Petitioners

And

The Chairman and Managing Director,
Corporate Office, APEPDCL,
Visakhapatnam and another .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER:

Facts on record disclose, pursuant to the recruitment notification issued by the Eastern Power Distribution Company Limited in the State of Andhra Pradesh in the year 2006, after the selection process, the petitioner was appointed as Junior Lineman. Though the regular selection process was conducted, on assessment of eligibility and suitability of the petitioner, his appointment was made on contract basis. All appointments, pursuant to 2006 notification were made in similar manner. While working in that capacity, on the allegation that the petitioner was involved in a criminal case and was remanded to judicial custody, he was placed under suspension by proceedings, dated 21.07.2009, issued by the Divisional Electrical Engineer, Operations, Bobbili, Vizianagaram, the 2nd respondent. The order of suspension reflects that the petitioner was suspended on the ground of his involvement in a criminal case and was in judicial custody for more than 48 hours. It also contemplated disciplinary proceedings. However, by referring to the Memo, dated 25.02.2010, as instructed by the higher authorities, the services of the petitioner were terminated by the 2nd respondent on the ground of his involvement in criminal case. In S.C.No.72 of 2010 on the file of the Assistant Sessions Judge, Vizianagaram District, the petitioner was the sole accused. Vide judgment, dated 25.02.2011, the learned Assistant Sessions Judge acquitted the petitioner of the charge levelled against him.

2. After acquittal, the petitioner as well as association representing the petitioner filed representations praying for reinstating him into service and for granting other benefits. Alleging inaction on the part of the respondents and challenging the order of termination, this Writ Petition is filed.

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

4. Learned counsel for the petitioner submits that the only reason for termination of the services of the petitioner was his involvement in criminal case. A false case was foisted on the petitioner and he was acquitted by the competent criminal Court. As a consequence to acquittal, he ought to have been reinstated into service and granted consequential benefits and contrary action of the respondents is illegal. He further submits that the services of his batch-mates and persons recruited in pursuance of 2006 selection process, were regularized as early as in the year 2010. Orders of regularization, dated 15.02.2010, are enclosed to the paper book of the Writ Petition. He therefore submits that if the petitioner continued in service, he would have also got the benefit of regularization, as extended to others, and on account of illegal suspension and termination, the same was denied to him and he was subjected to consequential suffering for all these years.

5. Learned Standing Counsel for the respondents submits that as the petitioner was appointed only on contract basis, the question of his reinstating into service does not arise and the petitioner is not entitled to the relief sought by him.

6. It is not in dispute that pursuant to the process of selection, the petitioner was appointed as Junior Lineman on contract basis. It is also not in dispute that the services of employees appointed in similar manner, on contract basis, pursuant to 2006 selection process, were regularized in February, 2010. At that time, petitioner was placed under suspension and later terminated.

7. Though the respondents contend that the petitioner was a contract employee and therefore he cannot ask for reinstatement, a bare perusal of the order of suspension would show that the petitioner was treated as employee of the respondent company. The order of suspension as well as termination, was passed by the Divisional Electrical Engineer, who is the disciplinary authority for the post of Junior Lineman. Further, the order of suspension reveals that disciplinary proceedings were contemplated. If it is the case of contractual employment, the question of suspension and contemplation of disciplinary proceedings would not arise. It ought to have been termination of contract. Be that as it may, it is not in dispute that the petitioner was subsequently acquitted and the only reason for termination of his services was his involvement in a criminal case. Ordinarily, a contract employee cannot ask for restoration of his service, but it appears, all 2006 appointees were regularized. Thus, on consequential acquittal by the competent criminal Court, the petitioner is entitled to restoration of the position obtaining prior to the order of termination and to consequential benefit of consideration for regularization.

8. Having regard to the fact that the petitioner was a contract employee, he cannot be directed to be reinstated. It is for the

employer to consider the case of the petitioner for appointment as contract employee. However, since the services of his batch-mates were regularized in February, 2010, the respondents are directed to consider the claim of the petitioner also for grant of regularization of his services, if he is similarly situated to his batch-mates and otherwise suitable, and for the purpose of grant of regularization, the petitioner be treated as if he is in continuous service. However, he is not entitled to any other service benefits.

9. The Writ Petition is accordingly allowed. The exercise of consideration of grant of regularization to the petitioner, if he is otherwise eligible and suitable, shall be completed within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

Date:14.02.2017

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P. NAVEEN RAO, J