

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.21631 OF 2005

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ of *Mandamus* to declare the action of the respondents in dispensing with the services of the petitioners as Junior Lineman in 33/11 K.V. Sub-Station, Kothakota, Nasripatnam Sub-Division, Visakhapatnam District as illegal and arbitrary and consequently, direct the respondents to continue the services of the petitioners as Junior Lineman by protecting continuance of source of livelihood.

2. Pending writ petition, petitioner No.1 died. Hence, no orders are required to be passed insofar as petitioner No.1 is concerned.

3. The facts which lead to filing of the present writ petition are as under:

The petitioners were working as contract labour in the respondent organisation and doing the works in 33/11 K.V. Sub-Station, Kothakota pertaining to all works of Junior Lineman. They studied upto S.S.C., joined in the respondent organisation and started working there since 1999, in the sub-station, on contract basis. The services of the petitioners have been engaged by the respondents continuously through the contractors and even when the contractor is changed, the services of the petitioners were being used without any break and as on today, the services of petitioner No.2 is being continued in the organisation. It is stated that initially, the petitioners were paid meagre amounts and later, the respondents implemented the Minimum Wages Act and

petitioner No.2 is being paid nearly Rs.3,000/- basing on the skilled and semiskilled work. While things stood thus, under the instructions of the higher officials, the Chief General Manager, HRD issued a memo, dated 31.5.2005, requesting all the officials concerned in the division to ensure that the persons who are not having I.T.I. qualification in Electrician may be dispensed with and the persons who are having Court orders and the persons, who are having I.T.I. in other trades, may be continued. The said orders were issued by all the Distribution Companies. In view of the said orders, the officials have taken steps to remove employees who are not having I.T.I. qualification from service.

The grievance of petitioner No.2 is that he is working in the sub-station since long time and there are no complaints whatsoever against him and that he is working as a skilled person since his initial appointment. In view of his long experience, he has acquired qualification through knowledge and mastery in manning sub-stations on par with the persons who are having I.T.I. qualification. Having regard to the above, it is the request of petitioner No.2 that a direction may be given to the respondents to continue him in service as a Junior Lineman.

4. By an order, dated 05.10.2005, this Court ordered Rule nisi and granted *status quo* for a period of six weeks. Though the interim order was not extended, it appears that petitioner No.2 is still working as Lineman in the said organisation.

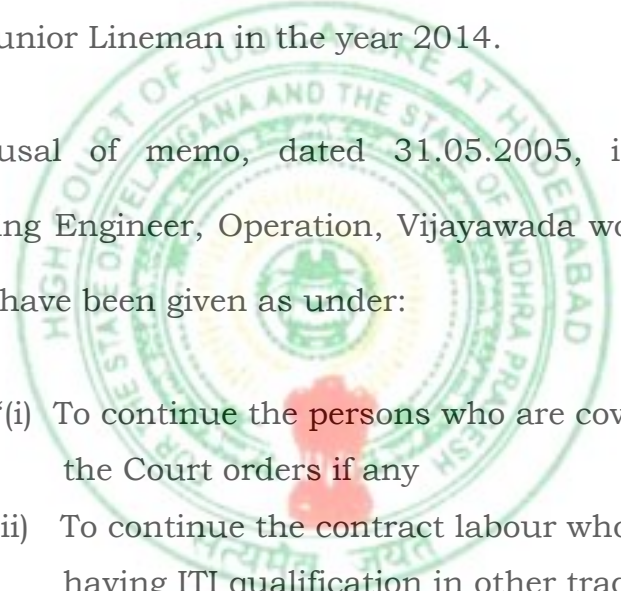
5. A counter came to be filed by the respondents disputing the averments made in the writ petition. It is their case that since petitioner No.2 does not satisfy the requirement of having the

minimum technical qualification i.e., I.T.I., he is not entitled to be continued in the said organisation.

6. Heard learned counsel for the petitioners and the learned Standing Counsel appearing for the respondents.

7. At the time when the matter is taken up for hearing, the learned counsel for petitioner No.2, placed on record the Provisional Trade Certificate, dated 08.06.2007, issued by the Joint Director of Exams, Hyderabad. It is stated that basing on the said certificate, petitioner No.2 was also called for an interview to the post of Junior Lineman in the year 2014.

8. A perusal of memo, dated 31.05.2005, issued by the Superintending Engineer, Operation, Vijayawada would show that instructions have been given as under:

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- “(i) To continue the persons who are covered by the Court orders if any
 - (ii) To continue the contract labour who are having ITI qualification in other trades if they are already working.
 - (iii) The persons who are not having ITI (Electrician) Qualification may be dispensed with other than (i) and (ii) above.”

As stated earlier, petitioner No.2 was engaged through a Contractor for doing the work of a Lineman on contract basis. Petitioner No.2 is doing the said service since 1999 without any break. In view of the fact that petitioner No.2 has obtained the required qualification in the year 2007, the respondent authorities may continue petitioner No.2 in service on contract basis as per the Rules.

9. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

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

JUSTICE C.PRAVEEN KUMAR

Date: 8.2.2017
AMD



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