

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.4710 of 2006

ORDER:

This writ petition, under Article 226 of the Constitution of India, by the sole petitioner is filed requesting to declare the inaction of the respondents in regard to non-inclusion of the petitioner's name in the information, comprising of all the eligible candidates to be recruited to 50%vacancies under the D.P (P & G-Per) Ms.No.36, dated 18-5-1997, furnished to the Andhra Pradesh Central Power Distribution Company Limited (APCPDCL) and consequently not considering the candidature of the petitioner for employment as arbitrary, illegal and violative of the said proceedings in D.P (P & G-Per.) Ms.No.36, dated 18.5.1997 & D.P (P & G-Per) Ms.No.271, dated 31.12.1997, and Articles 14, 16 and 21 of the Constitution of India; and consequently direct the respondents to include the name of the petitioner in the list of eligible candidates in the information furnished in respect of the last cadre post and grant such other orders as the Court may deem fit and proper under the circumstances of the case.

2. I have heard the submissions of *Sri S.Ashok Anand Kumar*, learned counsel appearing for the petitioner, and of *Smt. J.Koteswari Devi*, learned Standing Counsel appearing for APSPDCL.

3. The case of the petitioner, in brief, is this:

The 7th respondent herein was engaged as a Contractor by the 6th respondent, AP TRANSCO (Operations), Kurnool Zone. The 7th respondent has to provide Billing Clerks for discharging the billing work of the respondents 1 and 2 herein, i.e., of the AP TRANSCO. The petitioner was engaged as Billing Clerk by the 7th respondent. The petitioner served under the 6th respondent, as Billing Clerk from 01.03.1990 to 17.06.1991, i.e., for a period of 13 months. The identity card issued by the Assistant Accounts Officer working under the

control of the 6th respondent clearly evidences the said fact. On 05.03.1996, an agreement was entered into between the erstwhile A.P State Electricity Board and the present respondents and their recognized union to the effect that 50% of the vacancies in the initial recruitment cadres shall be filled up by ex-casual labour, who had obtained Court orders, Village Electricity Workers and contract labour working in the 88 abolished categories. The respondents 1 and 2/ AP TRANSCO issued D.P (P & G-Per) Ms.No.228, dated 27.01.1997, categorically stating that the contract labour other than those engaged in (33) abolished categories in the generating station will be considered and appointed against 50% of the existing vacancies. The said D.P (P & G-Per) Ms.No.228, dated 27.01.1997, also prescribed for relaxation of age, educational qualifications, seniority and other requisite criteria for appointment. The said D.P (P & G-Per) Ms.No.228 dated 27.01.1997 was superseded by D.P (P & G-Per) Ms.No.36, dated 18.5.1997. In D.P (P & G-Per) Ms.No.271, dated 31.12.1997, instructions were issued prescribing the eligibility criteria, unit of operation, age, educational qualifications, seniority and rule of reservation and order of preference. The petitioner possessed requisite qualifications and criterion prescribed for appointment. He made a representation to the official respondents in the month of December, 2005, seeking consideration of his candidature for appointment. Through Memo, dated 20.01.2006, the Chief General Manager, APCPDCL, requested the 6th respondent to compile the information of all the persons eligible to be considered for recruitment in the 50% category in D.P (P & G-Per) Ms.no.36 dated 18.5.1997 and furnish the same on or before 28.01.2006. The petitioner was informed by the officials of the 6th respondent that the respondents 1 to 6 proposed to appoint the employees in the last cadre of service. On enquiry made with the 7th respondent as to whether the petitioner's name was furnished or not, the 7th respondent informed the petitioner that he did not send his name to the 6th respondent as he did not receive any communication so to do. The non-consideration of the

candidature of the petitioner, who is eligible for employment to the last cadre post is contrary to the D.P (P&G-Per) Ms.No.36 dated 18.5.1997 and D.P (P & G-Per) Ms.No.271, dated 31.12.1997. Therefore, the action of all the respondents is arbitrary, illegal and violative of the aforesaid D.P.Mss and Articles 14, 16 and 21 of the Constitution of India. Hence, the writ petition is filed.

4. The respondents 1 to 6 filed counter resisting the writ petition.

5. This writ petition need not detain this Court for long for the reason that even according to the petitioner, the petitioner worked as Billing Clerk under the 6th respondent only for a period of 13 months, that is, from 01.03.1990 to 17.06.1991. In that view of the matter, even according to his own showing, the petitioner is not eligible as he did not conform to the prescribed criterion. Therefore, there is no need to examine any other issue involved in the writ petition and the writ petition can be straightaway dismissed being devoid of merit.

6. Accordingly, the Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

01st March 2017
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