

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.24342 of 2008

ORDER:

This writ petition, under Article 226 of the Constitution of India, is originally filed challenging the proceedings of the 3rd respondent, that is, Superintending Engineer, Operations, Andhra Pradesh South Power Distribution Company Limited (APSPDCL) in Memo No.SE/ O/ GNT/ Adm/ C2/ D.No.1775/ 05, dt.5-12-2005 whereby the case of the petitioner for promotion to the post of UDC was rejected.

However, during the pendency of the writ petition, the petitioner was permitted to amend the prayer vide orders of this Court, dated 15.07.2015, in WPMP 3967 of 2012. Thus, the petitioner is now challenging the proceedings of the 3rd respondent in the aforestated memo and also in the Memo no. No.SE/ O/ GNT/ Adm/ C2/ D.No.366/ 06, dt.25-03-2006, and also the proceedings of the 2nd respondent, that is, the Chief General Manager (HRD), Corporate Office, APSPDCL, in Memo No.CGM/ HRD/ DS-I/ AS-I/ PO-1/ A3/ D.No.3209/ 08, dt.31-12-2008, and is further requesting to direct all the respondents to consider the case of the petitioner for promotion to the post of UDC on par with his juniors as per TRANSCO O.O. No.89, dated 03.04.1999 with all consequential benefits.

2. I have heard the submissions of *Sri B.A.Prakash Reddy*, learned counsel appearing for the petitioner and of *Smt. J.Koteswari Devi*, learned Standing Counsel appearing for the respondents. I have perused the material record.

3. At the hearing, learned counsel for the petitioner submitted that the issue involved in the present writ petition is directly covered by a Division Bench judgment, dated 17.03.1997, of this Court in Writ Appeal No.561 of 1996. The learned Standing Counsel for APSPDCL fairly conceded the said aspect and endorsed the submission of the learned counsel for the petitioner.

Learned counsel, therefore, requested this Court to dispose of the writ petition in terms of the judgment of the Division Bench of this Court.

4. I have carefully perused the copy of the judgment of the Division Bench in the afore stated Writ Appeal, whereby the Division Bench while refusing to interfere with the order of a leaned Single Judge in W.P.No.1535 of 1990 dismissed the writ appeal. In the said order, the Division Bench noted as follows:

“The Government by Memo, dated 17.07.1963 relaxed the condition of passing S.S.L.C., and said that whoever appear for the examination and produce the record, even though he has not passed it, he will be appointed. Thus, the condition of passing S.S.L.C., to be eligible to be appointed to the post of Bill Collector was relaxed. The Board re-designated the post of Bill Collector as Revenue Cashier with Lower Divisional Clerk. The case of the respondent is that he is entitled for promotion as Upper Division Clerk. It is not disputed that the respondent has been placed at Sl.No.10 of the seniority list. Respondent was not promoted on the ground that he was not qualified. Therefore, he filed the writ petition and the learned Single Judge held that once qualification required for appointment to the post of Bill Collector has been relaxed, again, it cannot be insisted that he must have acquired such qualification for further promotion.”

The Division Bench also noted that the post of Bill Collector was re-designated as Revenue Cashier and thereafter as Lower Division Clerk and accordingly dismissed the Writ Appeal confirming the orders in the writ petition.

5. Though the petitioner retired from service, it is stated before this Court that he is eligible for notional promotion and all consequential benefits, as the issue involved in his present *lis* is squarely covered in his favour by the Division Bench decision of this Court.

6. Recording the submissions and following the afore-stated judgment of the Division Bench, the Writ Petition is allowed directing the respondents to consider the case of the petitioner for notional promotion to the post of UDC

on par with his juniors and extend him all monetary and consequential benefits to which he would be eligible on such notional promotion.

Pending miscellaneous petitions, if any, in this writ petition shall stand dismissed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

17.04.2017
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