

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.24994 OF 2001

ORDER:

This Writ Petition is filed seeking a writ of *Mandamus* declaring the action of the official respondents *i.e.*, respondents 1 to 4 in not taking into account the date of joining of the petitioners in service, for fixation of their *inter se* seniority, in the category of Lower Division Clerks, when they have joined in Vizianagaram circle at their request, and also the action of the respondents in fixing the seniority of the petitioners with reference to their date of joining in Vizianagaram circle as arbitrary, illegal and consequently direct them to review the seniority of the Lower Division Clerks in Vizianagaram circle, insofar as the request transferees from Srikakulam circle is concerned, and grant all consequential benefits including promotion to the next higher post.

2. Heard Sri Vedula Venkataramana, learned Senior Counsel appearing for the petitioners, and Sri M.Ravindra, learned standing counsel for the official respondents – A.P. Power Transmission Corporation Limited.

3. It has been contended by learned counsel for the petitioners that the petitioners were initially appointed as L.D.Cs. with the official respondents on 06.05.1991 and 05.04.1990, respectively, while the unofficial 5th respondent has joined in service on 08.05.1991 *i.e.*, subsequent to the date of joining of the petitioners. While the petitioners and 5th respondent were working in the composite Srikakulam district, the Srikakulam district got bifurcated into Srikakulam and Vizianagaram districts respectively and, initially, the petitioners as well as 5th respondent were sent on deputation to work in the newly formed Vizianagaram circle and, after rendering considerable length of service, the petitioners as well

as 5th respondent requested the official respondents for their absorption in Vizianagaram circle. Accordingly, the request of the petitioners as well as 5th respondent was accepted *vide* Memo No.Persl/F.6/F7/D No.380/94, dated 05.03.1994, and they were absorbed in the newly formed Vizianagaram circle.

4. The main contention of learned counsel for the petitioners is that when the petitioners were shown as seniors to 5th respondent in the composite Srikakulam district, but strangely, the official respondents have placed the 5th respondent over and above the petitioners in the newly formed Vizianagaram circle by taking into account the date of joining of the 5th respondent in Vizianagaram circle as sole criteria for fixing the seniority. The further contention of learned counsel for the petitioners is that when the petitioners as well as 5th respondent have opted for a transfer, all the transferees should be treated alike and their seniority among the transferees from Srikakulam circle to Vizianagaram circle should be protected and as such their *inter se* seniority should not be disturbed.

5. *Per contra*, learned standing counsel appearing for the official respondents contended that 5th respondent was sent on deputation ahead of the petitioners; therefore, the official respondents have treated 5th respondent as senior to the petitioners.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that when a set of people were transferred on their request from Srikakulam circle to Vizianagaram circle and their request was accepted *vide* Memo dated 05.03.1994, the official respondents cannot alter the *inter se* seniority of the employees who have opted for transfer, and when the petitioners who are seniors to the 5th

respondent in the Srikakulam circle, as well as 5th respondent on their request, were transferred and absorbed in the newly formed Vizianagaram circle, their *inter se* seniority should not be disturbed. Therefore, the action of the official respondents in treating 5th respondent as senior to the petitioners is arbitrary, illegal and the same is liable to be set-aside and the petitioners be treated as seniors to the 5th respondent. Accordingly, the final seniority list, dated 19/22.07.1996, issued by the 3rd respondent, insofar as showing the un-official 5th respondent as senior to the petitioners is set-aside. Accordingly, the respondents 1 to 4 are directed to revise the aforesaid seniority list of the petitioners and treat the petitioners as seniors to the 5th respondent.

7. Accordingly, the Writ Petition is allowed. No costs.

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

Date: 14.08.2018.
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ABHINAND KUMAR SHAVILI, J

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