

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON' BLE SRI JUSTICE N. BALAYOGI

+ WRIT APPEAL No.791 OF 2018

%Date: 16.07.2018

Between:

Superintending Engineer (O.C),
Operation Circle, Medak at Sangareddy and another

...Appellants

Vs.

\$ Mohd. Main Nawaz Khan S/o.Dastagiri Nawaz Khan,
NMR Typist, R/o.1-10-77/ E/ 1, Hassan Colony, Medak.

.. Respondent

! For Appellants

: Mr.R.Vinod Reddy

^ For Respondent

: Mr. D.Vijaya Kumar
Mr. V.Ramachandra Goud

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> Head Note

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? Cases Referred

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HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON' BLE SRI JUSTICE N. BALAYOGI

WRIT APPEAL No.791 OF 2018

JUDGMENT: (per V. Ramasubramanian, J)

Aggrieved by a direction issued by the learned single Judge in a writ petition filed by the respondent for considering the case of the respondent for regular appointment in terms of the Board Proceedings, the Electricity Board has come up with the above appeal.

2. Heard Mr.R.Vinod Kumar, learned Standing Counsel for the appellants-Board and Mr.D.Vijaya Kumar, learned Counsel for the respondent.

3. The respondent filed writ petition in W.P. No.21563 of 2001 seeking regularization of his services in the post of Typist. Alternatively he pleaded for a direction to regularize his services in terms of G.O.Ms.No.212 dated 22.04.1994 and B.P.Ms.No.36, dated 18.05.1997. His case was that he has been working as a Job Typist in the office of the 2nd appellant herein ever since June 1997 and that under similar circumstances, this Court issued directions in favour of some other candidates in W.P. No.9266 of 1998. The appellants herein filed a counter contending *inter alia* that the Department has been entering into contracts with Typewriting Institutes, for getting the typing work done on job work basis and that therefore, the Board Proceedings relied upon by the respondent herein would not apply. But, the learned Judge overruled the objection and held that if similarly situated persons were considered in terms of B.P.Ms.No.36, dated 18.05.1997, the respondent/ writ petitioner cannot be denied the benefits of the same.

Therefore, he directed the appellants to consider the case of the respondent/writ petitioner in terms of the Board Proceedings. Aggrieved by the said order, the Electricity Board is on appeal.

4. The fact that the respondent services were engaged through a contract entered into with the Typewriting institutes, is admitted in paragraph No.2 of the counter affidavit. Therefore, all that has to be seen is as to whether B.P.Ms.No.36 would apply to the case of the respondent or not.

5. It should be pointed out that B.P.Ms.No.36 dated 18.05.1997 was a product of collective bargaining that the Management of the Electricity Board had with three recognized Unions. Eventually, the Board issued orders under B.P.Ms.No.36, to the following effect:

*"4. In A.P.S.E Board accordingly issues the following orders in supersession of the orders issued in the references 2 * 3^d cited.*

i) Ex-Casual Labour:

The Ex-Casual Labour who were already interviewed but failed in the test and given second chance and also obtained interim orders from the High Court for consideration are only eligible for selection for appointment against 50% of the existing vacancies in accordance with the guidelines constrained in Memo No.DP/DM-1/A31188/85-1, dt:25-09-85 read with Memo No.DP/DM-I.G2/2459/93, dt:14-09-93.

ii) Village Electricity Workers:

In terms of the agreement, dt:05-03-1996, the cases of Village Electricity Workers shall be considered for selection and appointment against 50% of the existing vacancies to the condition that they are not eligible to derive any benefit for their earlier service and on selection they will be appointed as fresh candidates in A.P.S.E Board.

iii) Contract Labour:

The Contract Labour other than those engaged in 33 abolished categories in Generating stations shall be considered for selection and appointment against 50% existing vacancies."

6. The case of the respondent will not fall under the category of Ex-Casual Labour. It will also not fall under the category of Village Electricity Workers. But, the case of the respondent would fall under the category of the Contract Labour, covered by Paragraph-4 (iii) of B.P.Ms.No.36. The only thing that requires consideration now is to see whether the respondent was employed in any one of the 33 abolished categories in Generating Stations or not. If the respondent was engaged

in one of those 33 abolished categories, then B.P.Ms.No.36 will not apply to the case of the respondent.

7. The 33 categories of posts abolished by the Government, under G.O.Ms.No.41, Labour, Employment Training and Factories Department, dated 23.09.1996 are as follows:

1. Hospital workers.
2. Coal Plant Operations.
3. Soot blowing Operations.
4. Ash Plant Operations.
5. Breaking of Coal.
6. Boulders of Grid.
7. Coal Feeding to units through reclamation girds of conveyor.
8. Crusher House Operations.
9. Grid Jam Cleaning at wagon tripper and coal plant.
10. All Feeder Operations.
11. Hydrogen Plant Operations.
12. Water Boys.
13. Auxiliary A/C. Plants.
14. Jam Removers.
15. Mixing of Chemicals.
16. Collection of Samples.
17. Stacker.
18. Reclaimers.
19. Sweeper.
20. Sanitary Mazdoors.
21. Scavengers.
22. Pump House Operations.
23. Electricians.
24. Coal Mill.
25. Burner Floor.
26. Raw Water Pump Operations.
27. Water Treatment.
28. Diesel Electro Static Operations.
29. Otis Elevator Plant Maintenance.
30. Instrumentation.
31. Helpers.
32. Pulverising Mills.
33. Lab. Assistants.

8. The post of Typist is not included as one of the 33 abolished categories of posts. Therefore, the benefits of B.P.Ms.No.36 cannot be denied to the respondent. The learned Judge was right in directing consideration of the case of the respondent in terms of Paragraph-4(iii)

of B.P.Ms.No.36. We see no reason to interfere with the order of the learned single Judge.

9. Hence, the Writ Appeal is dismissed. The appellants are granted four (4) weeks' time to pass orders for considering the case of the respondent.

10. As a sequel thereto, miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

July 16, 2018

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