

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

* * * *

WRIT APPEAL Nos.1541 and 1548 of 2018

W.A.No.1541 of 2018

T.S.Northern Power Distribution Company of Telangana State Limited,
Vidyuth Bhavan, Nakkalagutta, Hanamkonda, Warangal District, rep. by its
Chairman & Managing Director and others.

...Appellants

Vs.

E.Santhosh Kumar

... Respondent

W.A.No.1548 of 2018

A.P. Northern Power Distribution Company Ltd (presently T.S.Northern
Power Distribution Company of Telangana State Limited), Vidyuth Soudha,
Nakkalagutta, Hanamkonda, Warangal District, rep. by its Chairman &
Managing Director and others.

...Appellants

Vs.

E.Santhosh Kumar

... Respondent

DATE OF JUDGMENT PRONOUNCEMENT: 23rd November, 2018

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

- | | |
|--|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the judgment? | Yes/No |
| 2. Whether copies of the judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether His Lordship wishes to see the fair copy of the judgment? | Yes/No |

SANJAY KUMAR, J

M.GANGA RAO, J

* THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

+ WRIT APPEAL Nos.1541 and 1548 of 2018

% DATED 23rd NOVEMBER, 2018

W.A.No.1541 of 2018

T.S.Northern Power Distribution Company of Telangana State Limited,
Vidyuth Bhavan, Nakkalagutta, Hanamkonda, Warangal District, rep. by its
Chairman & Managing Director and others.

... Appellants

Vs.

\$ E.Santhosh Kumar

... Respondent

W.A.No.1548 of 2018

A.P. Northern Power Distribution Company Ltd (presently T.S.Northern
Power Distribution Company of Telangana State Limited), Vidyuth Soudha,
Nakkalagutta, Hanamkonda, Warangal District, rep. by its Chairman &
Managing Director and others.

... Appellants

Vs.

\$ E.Santhosh Kumar

... Respondent

< Gist:

> Head Note:

! Counsel for appellants : Sri Zakir Ali Danish

^ Counsel for the respondent : Sri Chandraiah Sunkara

? CASES REFERRED:

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL Nos.1541 and 1548 of 2018

COMMON JUDGMENT: (per SK,J)

These two appeals arise out of the common order dated 10.09.2018 passed by a learned Judge of this Court in W.P.Nos.12763 of 2014 and 26009 of 2018. The appellants are the Andhra Pradesh Northern Power Distribution Company Limited, now known as the Northern Power Distribution Company Limited of Telangana State (TSNPDCL), and its officials, the respondents in the two writ petitions. The said writ petitions were filed by the sole respondent in these appeals. His prayer in W.P.No.12763 of 2014 was with regard to the Memo dated 04.03.2014, styled as a notice, whereby the TSNPDCL informed him that his contract services would be terminated and the said notice should be treated as a one month notice in terms of the contract. It may be noted that this Memo specifically stated to the effect that the competent authority wished to dismiss the respondent-writ petitioner from contract service. It appears that the respondent-writ petitioner thereafter preferred an appeal on 05.10.2015 in relation to the aforestated Memo. Aggrieved by the non-disposal of the said appeal, he filed W.P.No.26009 of 2018. By the common order under appeal, the learned Judge took note of the aforestated facts and directed the appellate authority, the Superintending Engineer (Operation), TSNPDCL, Karimnagar, to dispose of the pending appeal of the respondent-writ petitioner within a time frame, duly assigning reasons in support of his decision.

Sri Zakir Ali Danish, learned counsel for the appellants, would assert that in terms of the Andhra Pradesh State Electricity Board

Employees' Discipline and Appeal Regulations (for short, 'the Regulations'), which are applicable to the TSNPDCL, an appeal would not lie at the behest of a contract employee who has not completed five years of contract service. Reference in this regard is made to Regulation 13 of the aforestated Regulations which, to the extent relevant, reads as under:

'13. Appeal

Every employee of the Board shall be entitled to appeal to the appellate authority specified in column (10) of the table in Schedule as hereinafter provided from an order passed by an authority.

- (a) Imposing upon him any of the Penalties in regulation 5;
- (b) Discharging him in accordance with the terms of his contract, if he has been engaged on a contract for a fixed or for an indefinite period and has rendered under either form of contract, continuous service for a period exceeding five years at the time when his services are so discharged.

.....'

He would further state that in terms of the 'Agreement for Yearly Contract Employment in the APNPDCL' executed by and between the parties, the TSNPDCL was empowered to dismiss a contract employee by giving one month notice, as has been done in the case on hand. Reference in this regard was made to Clause VI of the aforestated Agreement and, to the extent relevant, it reads as under:

'VI TERMINATION OF SERVICES:-

Whereas the APNPDCL stipulates the conditions for termination as follows:-

- (i) xxx
- (ii) xxx
- (iii) The APNPDCL or its officers having proper authority, without any prior notice to the candidate find to be prima facie guilty of any insubordination, intemperance, moral turpitude or other mis-conduct participation in strikes/agitations/ union/association or of any breach or non-performance of any of the provisions of these

conditions or if otherwise found unsuitable for the efficient performance of his duties.

- (iv) The APNPDCL or its authorized officers shall dismiss the candidate from the contract by giving one month notice to the candidate in writing at any time during the service under this agreement without any cause assigned.'

Having given our earnest consideration to the aforesaid contentions, we are not persuaded to agree with the learned counsel.

It may be noted that the appeal provision specifically states that 'every employee' is entitled to appeal to the appellate authority. Though Sri Zakir Ali Danish, learned counsel, would contend that the appeal provision would only be applicable to regular employees, the said argument does not stand to scrutiny as Regulation 13(b) clearly demonstrates that even a contract employee is entitled to file an appeal thereunder.

The further argument of the learned counsel that only a contract employee who completes five years of service would be entitled to file an appeal also does not merit consideration as such an appeal, under Regulation 13(b), is only when such a contract employee is 'discharged' in accordance with the terms of his contract and not when he is imposed with any of the penalties specified in Regulation 5. It is not in dispute that 'dismissal from service' is one of the penalties stipulated in Regulation 5. Therefore, any contract employee who is 'dismissed from service' would have the right of appeal under Regulation 13(a) of the Regulations. Needless to state, the phrase 'dismissal from service' inevitably carries with it a negative connotation and would be stigmatic in nature. In such circumstances, a 'dismissed' contract employee cannot be denied the right to test the same in appeal, given the wide latitude of the appeal provision obtaining in the Regulations.

We therefore find no merit in the contention of the appellants that the respondent-writ petitioner has no right of appeal against the termination notice dated 04.03.2014 issued to him. In consequence, we find no grounds to interfere with the order under appeal, whereby the learned Judge directed disposal of the said appeal within a time frame.

The appeals are devoid of merit and are accordingly dismissed. As the time granted by the learned Judge has already expired, we grant four weeks time from the date of receipt of a copy of this order for disposal of the appeal on merits and in terms of the order passed by the learned Judge.

Pending miscellaneous petitions, if any, shall also stand dismissed.
No order as to costs.



SANJAY KUMAR,J

M.GANGA RAO,J

Date:23.11.2018

**Note: L.R. copy to be marked
B/o GJ**