HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos. 24641 AND 17897 OF 2015

WP. No. 24641 of 2015:

Between:

1.Erumalla Bala Raju, 152344,S/o. Sundaram,
Aged about 53 years, Occ: Junior Executive (Civil),
Office of the General Manager Office, Bellampalli.

2.S. Yeswanth Rao, 2656580, S/o. Pundalik Rao,
Aged about 51 years, Occ: Senior Supervisor (Civil),
Office of the General Manager Office, Bellampalli.

3.G. Venkateswara Rao, 2401058, S/o. China Veeraiah,
Aged about 53 years, Occ: Executive Engineer (Civil),
Office of the General Manager Office, Ramagundam-I.

4. T.Venkateshwar Rao, 2879667, S/o. Ratnam,
Aged about 52 years, Occ: Junior Technical Officer (Civil),
Office of the General Manager Office, Ramagundam-I..

5.E.Venkateshwar Rao 970881, S/o. Sambashiva Rao,
Aged about 49 years, Occ: Senior Supervisor (Civil),
Office of the General Manager Office,Srirampur

6.Nalla Rajesham 2643618, S/o. Mallaiah,
Aged about 52 years, Occ: Sncior Superivisor (Civil),
Office of the General Manager Office, Srirampur.

7. M.Vinay Sagar 2401066, S/o. Devadanam,
Aged about 48 years, Occ: Executive Engineer (Civil)
Office of the General Manager Office,Ramagundam-II.

8.Chimarla Bhanu Prasad, 2121852, S/o. Balayya,
Aged about 51 years, Occ: Executive Engineer (Civil),
Office of the General Manager, STPP.

9.S. Karunakar Reddy, 350641, S/o. Narasimha Reddy,
Aged about 50 years, Occ; Junior Technical Officer (Civil),
Office of the General Manager, STPP.

10.MSRK Prasad, 970849, S/o. Lakshmi Narasimha Murthy,
Aged about 52 years, Occ: Junior Technical Officer (Civil),
Office of the General Manager, STPP.

11. Pratapagiri Raju, 2643260, S/o. Veeraiah,
Aged about 49 years, Occ: Executive Engineer (Civil),
Office of the General Manager Office,Ramagundam-III.

12. PVN Padma Raju, 2401105, S/o. Ramabhadra Raju,
Aged about 52 years, Occ: Executiv Engineer (Civil)
Office of the General Manager Office, Ramagundam-III.

13. P. Ravinder 970899, S/o. Kanakaiah,
Aged about 53 years, Occ: Senior Supervisor (Civil),
Office of the General Manager Office, Ramagundam-III.

14. Goli Ashok Reddy 152378, S/o. Jagannadha Reddy,
Aged about 49 years, Occ: Executive Engineer (Civil),
Office of the General Manager,Bhupalpalli.

15. Pusa Vasanth Kumar 1226413, S/o. Ailaiah,
Aged about 50 years, Occ: Executive Engineer (Civil),
Office of the General Manager, Bhupalpalli.

16. Kodam Gattaiah, 2872526, S/o. Balaiah,
Aged about 50 years, Occ: Senior Supervisor (Civil),
Office of the General Manager, Srirampur.

17.Bitla Maheswar 2884476, S/o. Durgaiah,
Aged about 51 years, Occ: Senior Supervisor (Civil),
Office of the General Manager,Mandamarri.

18. Ramachander Rao,2130097, S/o. Gangadhar Rao,
Aged about 59 years, Senior Supervisor (Civil),
Office of the General Manager, Bellampalli.

19. Thota Venkateswara Rao, 2130136, S/o. Ramabrahmam,
Aged about 51 years, Occ: Senior Supervisor (Civil),
Office of the General Manager, Bellampalli.

20. M. Joseph 971104, S/o. Elia,
Aged about 54 years, Senior Supervisor (Civil),
Office of the General Manager, Bellampalli.

21. S. Devakumar Vidyasagar 1226390, S/o. S.L.Wilson,
Aged about 49 years, Occ: Senior Supervisor (Civil),
Office of the General Manager,Mandamarri.

22. B.Purnachander Rao, 500686, S/o. Ramiah,
Aged about 54 years, Occ: Junior Technical Officer(Civil),
Office of the General Manager, Srirampur

23. Paindla Balaraju 1470614, S/o. Abbasailu,
Aged about 46 years, Occ: Executive Engineer (Civil),
Office of the General Manager, Mandamarri.

24. Kavalla Vijayakumar 2879683, S/o. Somaiah,
Aged about 48 years, Occ: Senior Supervisor (Civil),
Office of the General Manager,Mandamarri.

25. B. Bharat Bhushan, 2879683, S/o. Janardhan,
Aged about 50 years, Occ: Junior Executive Trainee (Civil),
Office of the General Manager, STPP.

26. Azazulla Khan 2121747, S/o. Abbas Khan,
Aged about 50 years, Occ: Executive Engineer (Civil),
Corporate Office, Kothagudem.

27.D. Ravikumar 152394, S/o. Suryanarayana,
Aged about 48 years, Occ: Junior Technical Officer (Civil),
Corporate Office, Kothagudem.

28. T.Srinivasu 1470606, S/o. Suryanarayana Murthy,
Aged about 51 years, Occ: Executive Engineer (Civil),
Corporate Office, Kothagudem.

29. Rampalli Satyanarayana 2872518, S/o. Venkataiah,
Aged about 50 years, Occ: Executive Engineer (Civil),
Corporate Office, Kothagudem.

30. Chippala Sambasiva Rao, 150936, S/o. Somaiah,
Aged about 47 years, Occ: Senior Supervisor (Civil),
Corporate Office, Kothagudem.

31. M. Bhaskarachary 160737, S/o. Krishnamurthy,
Aged about 52 years, Occ: Senior Supervisor (Civil),
Corporate Office, Kothagudem.

32. Kattekola Raja Rama Rao,152338, S/o. Nagadhar Rao,
Aged about 46 years, Occ: Executive Engineer (Civil),
Corporate Office, Kothagudem.

33. Noone Praveen Kumar 2130144, S/o. Rajanna,
Aged about 48 years, Occ: Executive Engineer (Civil),
Corporate Office, Kothagudem.

34. B. Ashok, 2301074, S/o. Mallaiah,
Aged about 53 years, Occ: Executive Engineer (Civil),
Corporate Office, Kothagudem.

35. Siricilla Durga Prasad, 2121844, S/o. Rajaiah,
Aged about 51 years, Occ: Executive Engineer (Civil),
Office of the General Manager, Ramagundam-I.

36. S. Radha Kishan Rao 500741, S/o. Bho Rao,
Aged about 50 years, Occ: Junior Technical Officer (Civil),
Office of the General Manager, Ramagundam-II.

37.K.Chakradhar Rao, 152336, S/o. Madhusudhan Rao,
Aged about 51 years, Occ: Executive Engineer (Civil),
Hyderabad Office.

38. Mekala Jayaprakash 1226382, S/o. Murahari,
Aged about 51 years, Occ: Executive Engineer (Civil),
Office of the General Manager, Ramagundam-I.

39.Nandamuri Ramakrishna 500709, S/o. Kesavaswami,
Aged about 52 years, Occ: Executive Engineer (Civil),
Office of the General Manager, Srirampur.

40. D. Narasimha Rao, 970310, S/o. Veeraiah,
Aged about 53 years, Occ: Junior Technical Office (Civil),
Office of the General Manager, Tellandu
(All the petitioenrs are working in The Singareni
Collieries Company Limited in various capacities detailed supra)
...Petitioners

AND

1. The Singareni Collieries Company Ltd., Rep. by its Chairman and Managing Director, Lakdikapul, Hyderabad.
2. Director (Personnel Administration & Welfare), The Singareni Collieries Company Limited, Kothagudem, Khammam District).

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ order or direction, more particularly one in the nature of Writ of Mandamus, (a) declaring the action of the respondents in not promoting the petitioners as Junior Engineers (El Grade) from the dates on which they became eligible to be promoted in accordance with the Company Cadre Scheme; (b) Consequently direct the respondents to promote the petitioners on a time bound basis as contemplated under the Common Cadre Scheme on and from the date on which they became eligible in accordance with the Order and Judgment Dt. 24.12.2013 in Writ Appeal No.2361 of 2003 together with all the benefits including the arrears of pay and allowances due and payable to them on such promotion; (c) Direct the respondents to compute the arrears of pay and allowances and pay the petitioners together with interest @ 9 percent per annum with quarterly rests from the date on which they are entitled for higher pay and allowances till the date of actual payment; (d) Further, declare that the petitioners are entitled to exemplary costs or having thrust this unwarranted lis on the petitioners and direct payment of the same by recovering the amount of interest and costs payable to the petitioners from out of the personal funds of the officers responsible for this litigation.

WPMP. No. 31992 OF 2015

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to promote the petitioners in accordance with Common Cadre Scheme, pending disposal of the writ petition.

Counsel for the Petitioners: SRI SIVA

Counsel for the Respondents: SRI K. SANJEEV KUMAR, SPECIAL GOVERNMENT PLEADER FOR SRI J. SREENIVASA RAO, (SC FOR SINGARENI C)

WRIT PETITION No. 17897 OF 2015

Between:

1. Ontela Rajaveeru, S/o. Rajaiah, Aged about 58 years, Resident of: Qtr No. B.C.-200, Babu Camp, Kothagudem, Khammam District - 507101
2. Venkateswara Reddy Rami Reddy, S/o. R. Satyanarayana Reddy, Aged about 52 years, Resident of: Plot No. 109A, Mani Sai Nilayam, Beside J.P.Nagar, Miyapur, Hyderbad - 500049
3. Beesu Sidda Ramulu, S/o. Limbaiah Aged about 51 years, Resident of: Qtr. No. C-70, Bunglows Area, P.V.Township, Manuguru, Khammam District- 507125
4. Chandramouli .M, S/o. Mahadev .M Aged about 57 years, Resident of: 8-31, PC Katta, Manthini (Post), Karimnagar District
5. Nandivelu Gula Seshukumar, S/o. Lakshmi Narayana, Aged about 51 years, Resident of: B-23, Old Colony, Yellandu, Khammam District
6. Garlapati Sambasiva Rao, S/o. Venkaiah Aged about 55 years, Resident of: Qtr No. B.C.-133, 5th Line, Writer Basthi, Kothagudem Khammam District - 507101
7. Bhaskara Madhusudhana Rao, S/o. Bhaskara Rama Murthy, Aged about 52 years, Resident of: Qtr No. M.C.-19, Near Head Office, Santha Area, Kothagudem, Khammam District - 507101

...PETITIONERS

AND

1. Singareni Collieries Company Limited, (Represented by Chairman & Managing Director) Singareni Bhavan, Khairtabad, Hyderabad - 500 004

2. Director (Personnel, Administration & Welfare), Singareni Collieries Company Limited, Corporate, Kothagudem -507 101

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or orders or direction especially one in the nature of Mandamus declaring the action of the respondents in not promoting us as Junior Engineers (E-1 Grade) from the dates on which we are eligible and due to be promoted as illegal, arbitrary, and unsustainable in Law and consequently direct the respondents to promote us as Junior Engineers ('E-1' Grade) and other consequent promotions from the dates on which we are eligible and due to be promoted and grant all consequent benefits including and not limited to upkeep allowance, fuel allowance etc.

WPMP. No. 23133 OF 2015

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to widely publicise their stance in writing on all the notice boards regarding the promotion of the Diploma Holders, at all the work locations of the company so as to enable the other hopeful employees to know the correct stand of the company and would not be deceived by oral assurances of the various superior officers in the company on behalf of 'SCCL' in the interest of justice.

Counsel for the Petitioners: SRI ALLU MIDHUN KUMAR

Counsel for the Respondents: SRI K. SANJEEV KUMAR, SPECIAL GOVERNMENT PLEADER FOR SRI J. SREENIVASA RAO, (SC FOR SINGARENI C)

The Court at the stage of admission made the following: COMMON ORDER

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.24641 and 17897 of 2015

COMMON ORDER:

Since the issue involved in these two writ petitions is one and the same, they are being disposed of by way of this common order.

For the sake of convenience, the facts in W.P.No.24641 of 2015 are discussed hereunder. This writ petition is filed seeking the following relief:

> "…. to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus – (a) declaring the action of the respondents in not promoting the petitioners as Junior Engineers E-1 Grade from the dates on which they became eligible to be promoted in accordance with the Company Cadre Scheme; (b) consequently, direct the respondents to promote the petitioners on a time bound basis as contemplated under the Common Cadre Scheme and from the date on which they became eligible in accordance with the order and judgment dated 24.12.2013 in Writ Appeal No.2361 of 2003 together with all the benefits, including the arrears of pay and allowances due and payable to them on such promotion; (c) direct the respondents to compute the arrears of pay and allowances and pay the petitioners together with interest @ 9% per annum with quarterly rests from the date on which they are entitled for higher pay and allowances till the date of actual payment; (d) further declare that the petitioners are entitled to exemplary costs or having thrust this unwarranted lis on the petitioners and direct payment of the same by recovering the amount of interest and costs payable to

the petitioners from out of the personal funds of the officers responsible for this litigation; and pass such other order or orders ....."

Heard Sri Siva, learned counsel appearing for the petitioners in W.P.No.24641 of 2015; and Sri Allu Midhun Kumar, learned counsel appearing for the petitioners in W.P.No.17897 of 2015; and Sri K. Sanjeev Kumar, learned Special Government Pleader appearing for the respondents.

It has been contended by the petitioners that they are all employed with the respondents Company in Civil Engineering Department and all the petitioners are due for promotion to the posts of Junior Engineer (E1 Grade), however, the respondents are not considering their cases for promotion to the said post under the time bound promotion policy of the respondents Company.

Learned counsel for the petitioners had contended that all the promotions in Civil Engineering Department right from the cadre of Junior Engineers (E1 Grade) are on time bound basis, but the respondents are not considering the cases of the petitioners in accordance with the time bound promotion policy of the respondents Company.

Learned counsel for the petitioners had further contended that the issue raised in this writ petition is squarely covered by the judgment rendered by a Division Bench of this Court vide judgment dated 24.12.2013 in

W.A.No.2361 of 2003, wherein the Hon'ble Division Bench had allowed the Writ Appeal directing the respondents therein to consider the cases of the appellants therein for promotion on time bound scheme, subject to other eligibility criteria to be fulfilled and also subject to availability of vacancies. Learned counsel for the petitioners had further contended that the said judgment passed by the Hon'ble Division Bench was also confirmed by the Hon'ble Supreme Court vide judgment dated 05.01.2015 in S.L.P.No.12976 of 2014 dismissing the SLP preferred by the respondents Company against the judgment dated 24.12.2013 in W.A.No.2361 of 2003. Learned counsel for the petitioners, therefore, contends that the petitioners are all eligible for promotion to the posts of Junior Engineer (E1 Grade) from the dates on which they completed the minimum period of service and became eligible for promotion in accordance with the Company Cadre Scheme, however, the respondents are not considering their cases for further promotion in terms of the promotion policy of the respondents Company.

Learned counsel for the petitioners had further contended that had the respondents implemented the promotion policy in accordance with the time bound scheme of the respondents, the petitioners ought to have been promoted as Junior Engineers (E1 Grade) way back in the year 1995 itself along with Sri B. Atchyutha Ramaiah. Learned counsel for the petitioners had further contended

that the issue, whether the respondents are extending time bound promotions in Civil Engineering Department or not? was pending before this Hon'ble Court and this Hon'ble Court finally resolved the said issue in favour of the employees working in Civil Engineering Department of the respondents Company vide judgment dated 24.12.2013 in W.A.No.2361 of 2003 and immediately, the petitioners have submitted a representation dated 17.02.2015 to consider their cases for promotion in terms of the said judgment dated 24.12.2013 in W.A.No.2361 of 2003, as the judgment rendered by the Division Bench is a *judgment in rem* and not a *judgment in persona*. Though the respondents have been assuring the petitioners that their cases would be considered, they have not considered the cases of the petitioners for promotion to the post of Junior Engineer (E1 Grade) in accordance with the time bound policy of the respondents Company. When the respondents are not acting on the representation submitted by the petitioners on 17.02.2015, the petitioners have filed the present writ petitions seeking promotion strictly in terms of the judgment dated 24.12.2013 in W.A.No.2361 of 2003 rendered by a Division Bench of this Court. Learned counsel for the petitioners, therefore, contends that appropriate orders be passed in the writ petitions directing the respondents Company to consider the cases of the petitioners for promotion to the posts of Junior Engineer (E1 Grade) in accordance with the time bound policy of the respondents Company and also in accordance with the judgment dated

24.12.2013 in W.A.No.2361 of 2003 rendered by a Division Bench of this Court and pass appropriate orders in accordance with law.

On the other hand, learned Special Government Pleader appearing for the respondents had contended that though the promotion to the posts of Junior Engineer (E1 Grade) is as per the time bound scheme of the respondents Company, the same is subject to availability of vacancies. He further contended that on earlier occasion, vide judgment dated 09.02.2002 in W.A.No.705 of 2000 passed by a Division Bench of this Court, the matter was remanded to the learned single Judge for fresh consideration, wherein there is a specific observation that as to whether the writ petitioner has any existing legal right as on the relevant date would be dependent on the vacancy position as was obtaining by that time and the learned single Judge dismissed the writ petition by accepting the contention of the respondents that promotions have to be made subject to availability of vacancies. As those observations have attained finality, the question of considering the cases of the petitioners for promotion as per the time bound policy of the respondents Company would not arise and the cases of the petitioners would be considered whenever the vacancies would arise and when there are no vacancies, the question of considering the cases of the petitioners along with the case of Sri B. Atchyutha Ramaiah would not arise. In view of the above

stated facts, the learned Special Government Pleader appearing for the respondents Company contends that there are no merits and the writ petitions are liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that all the above contentions raised by the learned Special Government Pleader have been considered by the Division Bench of this Court vide judgment dated 24.12.2013 in W.A.No.2361 of 2003 and the contentions raised by the learned Special Government Pleader have been considered at paras 13 - 15 as Issue No.1 in the said Writ Appeal and the same were rejected and a direction was given to the respondents therein to consider the cases of the appellants therein in accordance with the time bound scheme of the respondents Company. Therefore, this Court cannot accept the contention of the learned Special Government Pleader as they are all considered by the Division Bench of this Court vide judgment dated 24.12.2013 in W.A.No.2361 of 2003.

In view of the aforesaid reasons, this Court is of the considered view that both these writ petitions are liable to be allowed directing the respondents Company to consider the cases of the petitioners for promotion to the posts of Junior Engineer (E1 Grade) with all consequential benefits as per the time bound scheme of the respondents Company, if they fulfil

the eligibility criteria and subject to availability of vacancies in the said category. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

SD/- K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman & Managing Director, Singareni Collieries Company Limited, Singareni Bhavan, Khairtabad, Hyderabad - 500 004
2. The Director (Personnel, Administration & Welfare), Singareni Collieries Company Limited, Corporate, Kothagudem -507 101
3. One CC to Sri. Siva, Advocate [OPUC]
4. One C.C. to Sri. Allu Midhun Kumar, Advocate [OPUC]
5. One CC to Sri. J. Sreenivasa Rao, (SC for Singareni C) Advocate [OPUC]
6. Two CCs to Special Government Pleader, High Court for the State of Telangana at Hyderabad [OUT]
7. Two CD Copies

Prk

HIGH COURT

DATED:07/12/2020



COMMON ORDER

WP. Nos. 24641 AND 17897 of 2015

Allowing the WP.
without costs.

SSV
9 copies
Dt- 15/12/2020