
(2014) 11 AP CK 0054

In the Andhra Pradesh High Court

Case No : Writ Appeal Nos. 404 of 2006 and 492 of 2009 and Writ Petition Nos. 3383, 13318, 13934 and 14136 of 2007

A.P. Genco

APPELLANT

Vs

K. Satyanarayana

RESPONDENT

Date of Decision : 06-11-2014

Acts Referred:

Citation : (2015) 3 ALD 288 : (2015) 1 ALT 634

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : C. Raghu, Advocate for the Appellant; R. Raghunandan, Advocate for the Respondent

Judgement

L. Narasimha Reddy, J.—In this batch of writ appeals and writ petitions, common questions of fact and law arise for consideration. Hence, they are disposed of through a common judgment.

2. The parties herein are referred to as arrayed in W.A. No. 404 of 2006.

3. The appellants are the successors to the erstwhile A.P. Electricity Board. The respondents were engaged as Casual Labourers, mostly in generating stations, for maintenance. The Board issued proceedings in the year 1997, for regularisation of the persons engaged on casual basis.

4. The qualifications for the post of Junior Plant Attendant (J.P.A.), were prescribed through B.P. Ms. No. 1048, dated 23.09.1989, as pass in 10th class and I.T.I., or Vocation Course in Electrical Trade. Through proceedings, dated 06.12.1996, such of the casual workers, who have fulfilled the qualifications stipulated in B.P. Ms. No. 1048, dated 23.09.1989, were regularised as J.P. As. The respondents filed W.P. No. 8389 of 2002, complaining that the stipulation of qualifications in B.P. Ms. No. 1048, dated 23.09.1989, is illegal, arbitrary and discriminatory and that their services ought to have been regularised with effect from 06.12.1996, on par with other candidates. The writ petition was opposed by

the appellants by filing a detailed counter-affidavit. A learned Single Judge of this Court allowed the writ petition, directing that the services of the respondents shall be regularised with effect from 06.12.1996, and their scales of pay shall be determined on notional basis. It was, however, directed that they shall not be entitled for arrears of differential wages. The appellants feel aggrieved by the orders passed by the learned Single Judge.

5. Heard Sri C. Raghu, learned Standing Counsel for the appellants, and Sri R. Raghunandan, learned Senior Counsel for the respondents.

6. The A.P. Electricity Board has gone for expansion of the generation as well as distribution. Since considerable manpower was required, persons were engaged on ad hoc, contract or casual basis. Naturally those employees brought pressure for regularisation of their services. One of the major steps taken by the Board was issuance of B.P. Ms. No. 36, dated 18.05.1997, providing for regularisation of casual workers. Similar measures were taken in respect of persons, who are engaged in generating stations and maintenance of sub-stations.

7. The Board decided to regularise the services of the eligible persons as J.P. As. The qualifications for that post were stipulated under B.P. Ms. No. 1048, dated 23.09.1989. It reads:

"The A.P. State Electricity Board after careful consideration prescribes the following qualifications for the post of Helpers.

- i) A pass in SSLC/SSC/10th Class
- ii) A pass in ITI preferably with Electrician Trade or
- iii) Vocation course in Electrical trade."

8. It is not in dispute that such of the persons who have fulfilled the qualifications, referred to above, have been appointed by transfer as J.P. As., with effect from 06.12.1996. The appellants treated the qualifications stipulated in Clause (1), on the one hand, and Clauses (2) and (3), on the other, as separate and exclusive. The respondents herein did not pass SSLC or 10th Class. However, on completion of 8th Class, they have joined ITI and completed the course. The version of the respondents was that, once they passed ITI, they deserve to be treated on par with other candidates, who too possess ITI qualifications, though they may have studied 10th Class. For a considerable time, this did not weigh with the appellants. Ultimately, it was in 2000 that the appellants issued a memo, dated 01.12.2000. It reads:

"All Unions have been persistently requesting for conversion of Mazdoors, those possessing anyone of the qualifications i.e. I.T.I. or SSC/10th as J.P. As., duly relaxing norms prescribed for J.P.A., which contemplates both the educational qualifications i.e. I.T.I. and S.S.C."

9. As per the orders issued in Memo No. DS(Per)/DM.6/PO.J2/493/90-1, dt. 23.10.1990 and B.P. (P. & G-Per)Ms. No. 369, dt. 11.12.1990, no conversion as

J.P. As from lower or equivalent category shall be allowed after 23.09.1989 unless the incumbents possess both SSC and ITI qualifications prescribed in B.P. Ms. No. 1048, dated 23.09.1989.

10. However, after careful consideration of the issue, taking cognisance of the fact that earlier, SSC was not a prerequisite qualification for admission in I.T.I. and hence APGENCO, decided that the Mazdoors possessing I.T.I. qualification shall be appointed as J.P. As, on appointment by transfers duly relaxing the prescribed SSC/10th qualification, as a special case against existing vacancies of J.P. As, on one time basis as per seniority, eligibility and suitability, subject to completion of their period of probation.

11. All the Chief Engineers/Superintending Engineers/Divisional Engineers of Generating Stations are requested to take necessary action accordingly.

12. From this, it becomes clear that the respondents were directed to be appointed as J.P. As., duly relaxing the qualifications stipulated in B.P. Ms. No. 1048, dated 23.09.1989. Accordingly, the respondents were appointed as J.P. As.

13. In the writ petitions filed by them, the respondents challenge not only the memo, dated 01.12.2000, but also B.P. Ms. No. 1048, dated 23.09.1989 and other relevant proceedings. According to them, the stipulation of pass in 10th Class itself was not proper.

14. We are of the view that the challenge to B.P. Ms. No. 1048, dated 23.09.1989, virtually became nugatory or redundant, once the respondents were extended the benefit of appointment as J.P. As., by relaxing those very qualifications. If they were of the view that the stipulation of the qualification itself is wrong, they were not supposed to reap the benefit under memo, dated 01.12.2000. Conversely, once they have availed the benefit under memo, dated 01.12.2000, they cannot challenge B.P. Ms. No. 1048, dated 23.09.1989.

15. However, once the appellants have relaxed the qualifications and appointed the respondents as J.P. As., the date of such appointment ought to have been 06.12.1996, as was done in the case of other candidates, who were appointed in the year 1998. This can be for the limited purpose of fixation of pay scales for the respondents, who were discharging the same functions as those that were appointed as J.P. As., in the year 1998, with effect from 06.12.1996. The learned Single Judge granted the relief in those lines and we do not find any basis to interfere with the same.

16. However, the apprehension of the appellants as well as J.P. As., who have been appointed in the year 1998, that the respondents herein may claim seniority over them, cannot be ignored. Since the respondents herein i.e. the writ petitioners, did not hold the same qualifications as the persons regularised in 1998, they deserve to be treated as juniors to them.

17. With this clarification, we dispose of the writ appeals and writ petitions, upholding the order passed by the learned Single Judge. There shall be no order

as to costs.

18. The miscellaneous petitions filed in these appeals and writ petitions shall also stand disposed of.