

(2014) 08 AP CK 0084
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 641 of 2012

A.P. Southern Power Distribution Company Ltd.	APPELLANT
Vs	
E. Venkata Swamy	RESPONDENT

Date of Decision : 07-08-2014

Acts Referred:

Citation : (2014) 08 AP CK 0084

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

Bench : Division Bench

Advocate : G. Vidya Sagar, Advocate for the Appellant; W.B. Srinivas, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

L. Narasimha Reddy, J.—This writ appeal is filed against the order, dated 27.03.2012, passed by the learned Single Judge in W.P.No.8402 of 2012.

2. The respondents, quite large in number, were assigned the work of different categories by the erstwhile A.P. Electricity Board, on contract basis. Through proceedings, dated 20.04.1998, the then administration terminated the services of the respondents. Challenging the same, the respondents and others filed W.P.Nos.14187 of 1998 & batch. Interim orders were passed therein and, ultimately, on the basis of the orders, such of the candidates, who possessed the prescribed qualifications, were absorbed as linemen. Since the respondents did not hold the qualifications, they were not absorbed. However, while disposing of the writ petitions through order, dated 01.05.2007, learned Single Judge of this Court directed that the respondents herein can be continued in the posts, for which they hold the qualifications, till a final decision is taken. Accordingly, they were being continued as watchmen on contract basis.

3. Alleging that their services are not being regularized despite existence of vacancies, the respondents filed Contempt Case Nos. 800, 801 and 802 of 2008. The Contempt Cases were closed on finding that there is no violation on the part

of the appellants. The representation to the effect that as and when the circumstances permit, the services of the respondents would be regularized, was taken note of.

4. The appellants initiated steps to fill the posts of Junior Assistants and notification was issued. The respondents also have submitted applications. They filed W.P.No.8402 of 2012, challenging the action of the appellants in not considering their cases for absorption, on permanent basis, in the existing vacancies of Junior Assistants in terms of the orders in W.P.Nos.14187 of 1998 & batch. Their contention was that after disposal of W.P.Nos.14187 of 1998 & batch, they acquired the qualifications for the post of Junior Assistant and, accordingly, the appellants ought to have absorbed them in those posts. The writ petition was opposed by the appellants stating that the prescribed procedure for selection of candidates for the post of Junior Assistants is being followed and the respondents have also applied for the same. It was also pleaded that certain weightage to in-service candidates is provided. Learned Single Judge disposed of the writ petition through the order under appeal, directing that the cases of the respondents shall be considered for appointment as Junior Assistants, before the selection process, in pursuance of the notification, is completed.

5. Sri G.Vidya Sagar, learned Senior Counsel for the appellants, submits that the very basis for the respondents to be continued as watchmen is shaky, since their cases were already considered for the posts of linemen, and were rejected. He contends that when the respondents have already submitted applications for the posts of Junior Assistants, they have to await the selection and there cannot be any basis to direct that they be absorbed against the posts of Junior Assistants.

6. Sri W.B. Srinivas, learned counsel for the respondents, on the other hand, submits that even while declining to grant any relief in the contempt cases, this Court has taken note of the representation of the appellants that the cases of the respondents would be considered for regularization as and when the vacancies arise and, though there are quite large number of vacancies in the posts of Junior Assistants and the respondents are qualified for the same, no steps were taken in that direction. He contends that the learned Single Judge took note of all the relevant circumstances and issued the directions and that the writ appeal deserves to be dismissed.

7. The erstwhile A.P. Electricity Board used to have a perfect system of administration, including the one for appointment of employees of various categories, by invoking process of selection. It was running on very sound lines and gained applause at national level. In a way, its downfall started with the concept of ad hocism, whatever be the reason. Indiscriminately, contract labour were engaged to handle various situations and, obviously, under pressure from unions and political leaders, B.P.Ms.No.36, dated 18.05.1997, was issued, providing for absorption of all the contract labour against 50% of the available vacancies as on the date of the proceedings. There are instances where, in respect of work worth hardly Rs.5,000/- entrusted to a contractor, as many as 15

to 20 persons, claiming to have been engaged as the contract labour for execution of the work, came to be absorbed. If the present state of affairs is so bleak, the contribution of B.P.Ms.No.36 is by no means insignificant. The organization was flooded with persons hardly with any qualifications or experience and it was a heyday for the contractors and the officials of the Board, who were capable of being managed.

8. Along with quite good number of persons, the respondents have also approached this Court feeling aggrieved by the order dated 20.4.1998. During pendency of W.P.Nos.14187 of 1998 & batch, an exercise was undertaken to fill the vacancies of linemen, obviously, because no other posts were available. While quite a large number of persons were absorbed, the respondents were leftover since they did not hold requisite qualifications. The writ petitions were disposed of taking note of all those developments. When an apprehension was expressed that the respondents may be discontinued, an assurance from the counsel for the appellants herein that they would be continued against the posts, for which they hold qualifications, was recorded. It is, thus, that the respondents are being continued as watchmen.

9. The Contempt Cases filed by the respondents were also rejected.

10. It appears that after disposal of W.P.Nos.14187 of 1998 & batch, the respondents acquired certain educational qualifications, which incidentally are sufficient for the posts of Junior Assistants. On that basis, they filed the present writ petition stating that though they acquired the qualifications, they were not being absorbed. It needs to be noted that the appellants issued a notification, proposing to fill the vacancies in the posts of Junior Assistants and the respondents have also applied for the same. Even while selection process is on and though the respondents have already submitted applications in response to the notification, they wanted absorption against the post straight away, without subjecting them to any process of selection. There cannot be an instance of over ambition, bigger in size, than this. The respondents are not able to point out as to how they get any right for the posts of Junior Assistants, particularly when they are working as watchmen. The relief, even in a stretched form, can only be to the extent of absorption, against the posts of watchmen and not for any other posts. If the same contention is to be accepted, had the respondents acquired the Bachelors Degrees in Engineering, which incidentally are available, in the states of Rajasthan etc., just for asking for it, they would have pressed for being appointed as Engineers. The fate of organizations, in such an event, would not be difficult to imagine.

11. Learned Single Judge did not record any finding as to how the respondents become eligible to be absorbed straightaway against the posts of Junior Assistants, though the respondents themselves stated that the process for selection for the posts of Junior Assistants is already on. We do not find any basis for the direction issued by the learned Single Judge. At the same time, we are of the view that in the event of the respondents being not selected for the posts of

Junior Assistant in the selection process, they need to be continued in the same position in which they are now functioning, till any step is taken in accordance with law

12. The Writ Appeal is allowed to the extent indicated above. There shall be no order as to costs.

13. The miscellaneous petitions pending in this writ appeal shall also stand disposed of.