

(2001) 01 AHC CK 0112
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 23555 of 1997

Ashok Kumar Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-01-2001

Acts Referred:

Uttar Pradesh Electricity Reforms Act, 1999 — Section 23

Citation : (2001) 1 UPLBEC 703

Hon'ble Judges : S.R. Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.R. Singh, J.—By means of the petition on hand under Article 226 of the Const. the petitioners seek issuance of directions to the respondents to declare the results of selection held by the U.P. State Electricity Board for the posts of supervisor re-designated as Junior Engineer (Thermal) pursuant to, the advertisement dated 19.10.93 and 20.10.93 published in different Newspapers. The petitioners herein appeared in the test held by the U.P. State Electricity Board pursuant to the advertisement aforesaid. Though the results were formally not declared, the petitioners it is alleged, have come to know that a merit-list was prepared in which the name of the petitioners also figured amongst candidates selected for appointment to the post of Junior Engineer (Thermal) for Anpara "B" Thermal Power Station. Sonbhadra, the candidates lower in order of merit have been appointed while the petitioners have been denied appointments. The case of the respondent is that the U.P. State Electricity Board which had conducted the selection is no longer in existence as a result of the U.P. Electricity Reforms Transfer Scheme, 2000, which was notified vide notification No. 149/P-1/2000-24. Lucknow, dated Jan. 14, 2000 pursuant to which the State Electricity Board has since been truncated and trifurcated into three distinct legal entities namely, Uttar Pradesh Power Corporation Ltd. and the U.P. Rajya Vidutya Utpadan Nigam Ltd. and the U.P. Jal Vidutya Utpadan Nigam

Ltd. Under the U.P. Electricity Reforms Transfer Scheme, 2000, Anpara Thermal Power Station has become a part of the U.P. Rajya Vidutya Utpadan Nigam Ltd. and the Nigam is under no obligation to declare the result of the selection held by the U.P. Electricity Board. It is also alleged that posts of Junior Engineer (Thermal) for Anpara, "B" Thermal Power Station are yet to be created. The vacant posts under the Board, according to the respondents, stood abolished w.e.f. Jan. 14, 2000. Reliance has been placed on Section 23(7) of the U.P. State Electricity Board Reforms Act, 1999. Section 23, in so far as it is relevant, reads as under:

"23. (1) On and from the date specified in a transfer scheme, prepared and notified by the State Government to give effect to the objects of this Act. hereinafter referred to as the appointed date in this Act, all properties, and all interests rights and liabilities of the Board therein shall vest in the State Government.

XXX XXX XXX (4) The State Government, may, after consultation with the generating company or the Power Corporation, here-in-after referred to in this Section as transferor, may, require transferor to draw up a transfer scheme to vest in a person here-in-after referred to in this section as transferee, any of the functions including distribution function, property, interest right or liability which may have been vested in the transferor under this section and notify the same as statutory transfer scheme under this Act. The transfer scheme to be notified under this Sub-section shall have the same effect as the transfer scheme under Sub-section (2).

XXX XXX XXX (7) The State Government may provide in any of the transfer schemes framed under this section for the transfer of personnel to the Power Corporation or a company subsidiary to the Power Corporation or a generating company, on the vesting of properties, rights and liabilities in the Power Corporation or a company subsidiary to the Power Corporation or a generating company, as a part of the undertakings transferred under this section and on such transfer the personnel shall hold office or service under the Power Corporation or a company subsidiary to it or a generating company, as the case may be, on terms and conditions that may be determined in accordance with the transfer scheme subject however to the following namely :

(a) terms and conditions of service of the. personnel shall not be less favourable to the terms and conditions which were applicable to them immediately before the transfer;

(b) the personnel shall have continuity of service in all respect; and

(c) all benefits of service accrued before the transfer shall be fully recognised and taken into account for all purposes including the payment of any or all terminal benefits :

Provided that, notwithstanding anything contained in any other law for the time

being in force, and except as provided in the transfer scheme and in this Act, the transfer shall not confer any right on the personnel so transferred to any compensation or damages :

Provided further that the posts in the Board of all the personnel whose services are to be so transferred shall stand abolished with effect from the date of transfer.

Explanation.-For the purposes of this section and the transfer scheme, the expression "personnel" means all persons who on the appointed date are the employees of the Board and who under the transfer scheme are given the option to join service under the control of the transferee."

2. A perusal of the provisions aforesaid would be eloquent of the fact that upon the transfer scheme coming into force the posts in the Board of all the personnel whose services were to be transferred under the scheme, stood abolished with effect from the date of transfer i.e. 14.1.2000 and the Board having lost its entity due to its trifurcation into Uttar Pradesh Power Corporation Ltd.; the Uttar Pradesh Rajya Vidyuta Utpadan Nigam Ltd. and the Uttar Pradesh Jal Vidyuta Utpadan Nigam Ltd. is no longer amenable to the writ jurisdiction. It is implicit in the second proviso to Sub-section (7) of Section 23 of the Uttar Pradesh State Electricity Board Reforms Act, 1999 that the vacancies in the Board lying unfilled on the date of transfer, stood automatically abolished. The Director Corporate Planning of the U.P. Power Corporation Ltd. by his letter dated Jan. 22, 2000 has made it clear that the unfilled posts under the erstwhile Board stood automatically abolished u/s 23(7) of the Act aforesaid.

3. The Uttar Pradesh Rajya Vidyuta Utpadan Nigam Ltd. to which Anpara Thermal Power Station, Sonbhadra has been transferred under the transfer scheme is hide-bound by no obligation to declare the result of the selection held by the erstwhile Board for the posts of Junior Engineer Thermal nor have any rights accrued to the petitioners qua the Uttar Pradesh Rajya Vidyuta Utpadan Nigam Ltd. or the Corporation to seek declaration of the results of the selection made by the erstwhile Board in respect of the posts of Junior Engineer Thermal for Anpara "B" Thermal Power Station, Sonbhadra. It may be opposite to spell out here that even selection does not confer an indefeasible right to be appointed. There may be legitimate ground on which appointment may be denied to the selected candidates. In this perspective, even if it be assumed that the petitioners were selected for appointment, the selection has been rendered otiose in the altered circumstances. Mere fact that some of the candidates whose names figure in the select list, were appointed by the Board, does not open the portcuillis to enable the petitioners to enter the service of the Nigam, for the selection conducted by the Board did not confer any right upon the petitioners to seek appointment as against the Uttar Pradesh Rajya Vidyuta Utpadan Nigam Ltd. to which Anpara "B" Thermal Power Station has been transferred under the Transfer Scheme vide Notification dated Jan. 14, 2000. In the circumstances, the petitioners are not entitled to any relief.

4. In the result, the petition fails and is dismissed without any order as to costs.