

(1994) 03 AP CK 0002

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4754 of 1991

H. Suryaprakasa Rao and Others

APPELLANT

Vs

Andhra Pradesh State Electricity Board and Another

RESPONDENT

Date of Decision : 24-03-1994

Acts Referred:

Constitution of India, 1950 — Article 14, 16
Electricity (Supply) Act, 1948 — Section 79C

Citation : (1994) 2 ALT 341

Hon'ble Judges : P.L.N. Sarma, J

Bench : Single Bench

Advocate : V. Jogayya Sarma and V. Venkata Rao, for the Appellant; C.V. Mohan Reddy, for the Respondent

Final Decision : Dismissed

Judgement

P.L.N. Sarma, J.—This Writ Petition has been filed for a Mandamus to compel the respondents to implement B.P. Ms. No. 233 Management Services, dated 24-3-1976, and consequently to direct the respondents to prepare a common seniority list of several categories of staff working in the head quarters, i.e., staff in the Board Secretariat, Chief Engineers Offices at the head quarters and the staff working in the erstwhile offices of the Financial Advisor and Chief Controller of Accounts and to frame a uniform set of regulations governing promotions etc.

2. All the petitioners are the employees of the A.P. State Electricity Board (hereinafter referred to as "the Board") and they have been working in the offices of the Financial Adviser (for short "F.A.") and Chief Controller of Accounts (for short "C.C.A."). Some of them are working as Assistant Accounts Officers and some others as Accountants and the rest as Upper Division Clerks and Lower Division Clerks.

3. The grievance involved in the Writ Petition has a long history and it arises in the following circumstances:-

"The Board" had different services, viz., Secretariat service, Accounts service, Engineering service, etc. Prior to 1976, "Personnel function" at the head quarters of "the Board" was being dealt with by the employees manning different services of "the Board". That means, in each service some of the employees were doing or discharging "personnel functions". There was no centralized Personnel Department discharging "personnel functions". This resulted not only in duplication of work but also caused delay in decision making processes. Therefore, "the Board" requested the Administrative Staff College of India, Hyderabad to study the organizational system of "the Board" and suggest improvements in its working.

4. The consultants, viz., the Administrative Staff College, submitted its report and suggested reorganization of the services of "the Board" on functional basis. So far as personnel functioning in different departments, the consultants suggested reorganization and centralisation and formation of personnel department, which will discharge "personnel function" instead of leaving it to each of the Department to look after the personnel functions of the persons manning those Departments separately. The consultants stated with regard to the staff working under different agencies to be drawn into the Personnel Department as under:-

"For integrating the personnel function as per the above proposal, the staff working under different agencies i.e., Secretariat, offices of C.E.Es., C.E. (Civil), C.C.A., etc., are to be regrouped under one department.....While affecting transfers of staff dealing with personal matters from different departments to the personnel function, it would be necessary to identify only the required number of officers and staff for the above listed sub- functions."

5. The recommendations of the consultants have been accepted by "the Board" in its Resolution, dated 28-6-1978. The relevant recommendation for the purpose of this Writ Petition reads thus:-

"(iv) The question of merger of both the offices of the Board Secretariat and the Personnel wing of the Officers of Chief Engineers and F. A. and CCA. is accepted in principle. Fixing the interseniority of the personnel in these offices may be examined in consultation with S.L.A."

6. It is stated in the Writ Petition that "the Board" while creating the Personnel Department headed by a Director of personnel, drawn the employees doing personnel functions in different departments, including Board Secretariat, Chief Engineers Offices, etc., did not take even one employee in the F.A., and C.C.A., offices, who were discharging the very same functions and who were, according to the consultants report as accepted by the Board, Should have been drawn into the Personnel Department.

7. Originally "the Board" issued, prior to 1978, B.P. Ms. No. 61, dt. 21-1-1976, regarding the reorganization of "personnel functions" into one unit. Likewise, the Board issued B.P. Ms. No. 233, dated 24-3-76, for creation of General Services

Department. Similarly, for different departments, different Board proceedings were issued.

8. Some of the erstwhile employees in the other departments, viz., Chief Engineer (Electrical) Generation; Chief Engineer (Civil) etc., who were drawn from the sources other than Board Secretariat into the personnel Management Department, filed Writ Petition No. 4022 of 1978 in this Court not only claiming parity in the scales of pay but also in promotional opportunities, etc., with the employees drawn from the Secretariat services. The Writ Petition has been filed contending that the persons drawn from different sources are integrated and unified into one service and became part of the centralized unified personnel services cell and, therefore, there cannot be any discrimination after a unified cell was formed between the employees. They contended that the personnel drawn from different sources having been integrated into one service, they should not be discriminated either in the pay scales or in respect of any one of the service conditions. In support of the Writ Petition they relied upon B.P. Ms. No. 61.

9. In the said Writ Petition it was contended on behalf of "the Board" that the reorganization was being done on a trial basis and that the said decision is not yet finalised. The Writ Petition was disposed of by Jeevan Reddy, J. as he then was by Judgment dated 7-7-1981. The learned Judge while observing that the complaint of the petitioners therein cannot be said to be unjustified, declined to issue a Mandamus, but directed "the Board" to take a decision, forthwith, on the twin questions "whether to continue the present reorganized cell, i.e., the Personnel Management Services Cell, and, if so, whether there are any reasons for denying the petitioners therein the benefit of principle of equal treatment which is the basis of Articles 14 and 16 of the Constitution of India". The learned Judge further observed that "the Board" also should consider whether it is necessary and admissible to amend the relevant regulations governing the conditions of services to ensure equal and uniform treatment to all persons doing identical work.

10. Complaining that in spite of the directions issued in Writ Petition No. 4022 of 1978, dated 7-7-1981, by this Court no action was taken by "the Board", the employees belonging to the Engineering Services again moved this Court in Writ Petition No. 10282 of 1983 seeking a direction to "the Board" to form uniform set of regulations applicable to both the groups, viz., erstwhile Board Secretariat employees and the employees drawn from other sources, who are merged and formed into one Centralized Personnel Services/ Department and also sought a direction to prepare a common seniority list of all the employees drafted into the Centralized Personnel Department. It is pertinent to notice that by the time the Writ Petition No. 4022 of 1978 was dismissed on 7-7-1981, the resolution of "the Board", dated 28-6-1978, accepting the recommendations of the consultants came into existence but was not brought to the notice of the learned Judge. When Writ Petition No. 10282 of 1983 came up for hearing before the very same

learned Judge, the fact that "the Board" accepted the report of the consultants by its resolution, dated 28-6-1978 was brought to his notice. The learned Judge disposed of the Writ Petition on 23-2-1984 directing "the Board" to take immediate steps for equation of posts and also for preparing common seniority list of several categories of persons working in the new unit, viz., Personnel Management Services Unit. The learned Judge further directed that the promotions already effected should not be interfered with, but temporary promotions made in the new unit shall be revised and regularised in accordance with the common seniority list prepared in pursuance of the Judgment. The learned Judge stated that "the Board" should equate the posts and prepare a common seniority list which will have the effect of removing the disparity in the matter of pay scales and other conditions of service including channels of promotion between the rival groups, viz., Secretariat employees as well as the employees of the Engineering Departments. It was further directed by the learned Judge that the exercise should be completed on or before 30-6-1984.

11. As a consequence of the Judgment of this Court in Writ Petition No. 10282 of 1983 "the Board" issued regulations exercising the powers u/s 79C of the Electricity Supply Act, 1948. B.P. Ms. No. 636, dated 29-6-1984 was issued regulating the new integrated set up. B.P.Ms. No. 637 of even date was also issued.

12. The proceedings referred to above culminated in the Judgments of this Court, dated 7-7-1981 and 23-2-1984 were initiated by the members of the staff belonging to the erstwhile head quarters establishment of Chief Engineers Office. It is pertinent to notice that the employees of the F.A., and C.C.A., have not filed any Writ Petition till then raising any complaint, that such of those persons who are discharging "personnel functions" in the Accounts Department were not drawn while forming the Centralised Personnel Services Cell. Earlier Writ Petitions relate to the persons who were drawn from other Departments, viz., who were working in the erstwhile head quarters establishment of Chief Engineer Office. That was a fight which was waged by the employees who were drawn and merged in the Centralised Personnel Management Cell.

13. The present petitioners, along with others who are all working in F.A., and CCA. offices, filed Writ Petition No. 10322 of 1984 in this Court seeking directions to "the Board" to frame uniform set of service regulations to all the groups including the erstwhile F.A., and C.C.A., and to prepare a common seniority list amongst all the employees of "the Board" and to effect promotions on the basis of such common seniority list. That Writ Petition also came before the very same learned judge (Jeevan Reddy, J.). The learned Judge after referring to the previous proceedings culminating in the formation of new unit "Personnel Service Cell" stated that even the employees attending to the "personnel functions" in the office of F.A., and CCA., ought to have been transferred to the new reorganised set up, as per the recommendations of the consultants, and ultimately directed "the Board" to identify the employees, whether members of

the Administrative Service (Ministerial Service) or Accounts Service, who were attending to personnel functions in the office of F.A., and CCA., as on the date of the earlier Judgment on 23-2-1984 in Writ Petition No. 10282 of 1983 and integrate the persons so identified into the new set up etc.

14. Against the said Judgment, Writ Appeal No. 1107 of 1986 was preferred by the petitioners themselves to a Division Bench of this Court. When the matter came up before the Division Bench on 22-10-1990, it was represented that the appellants wanted to withdraw the Writ Appeal with a liberty to file a fresh Writ Petition. Accordingly the Writ Appeal was dismissed as withdrawn with a liberty to the appellants therein to file fresh Writ petition seeking implementation of B.P. Ms. No. 233, Management Services, dated 24-3-1976. Accordingly, the present Writ Petition has been filed.

15. I have already extracted and referred to the prayer sought in this Writ Petition. The withdrawal of the Writ Appeal with a liberty to file a fresh Writ Petition is obviously withdrawal of the Writ Petition itself. Therefore, the Judgment in the Writ Petition will also be no avail to the petitioners.

16. In the affidavit filed in support of this Writ Petition all the proceedings culminating in the order of the Division Bench in Writ Appeal No. 1107 of 1986, dated 22-10-1990, were narrated. Then it is stated in Para 8 that the decision to integrate the services was made by "the Board" by its resolution dt. 28-6-1978 on the basis of the report of the consultants. However, the recommendations of the consultants have not been fully implemented. According to the petitioners, the recommendations of the consultants, as accepted by the Board, is for the total integration of those working in all the Departments, including F.A., and CCA. Since the integration was only done between persons working in the Secretariat Department and Chief Engineer Offices, the integration of service has not been fully effected. The averment in para 8 of the Writ Petition is that all the persons working in every Department should be integrated into a single service and a common seniority list of the employees must be maintained giving equal pay and equal opportunity for promotions, etc. In that process the Writ Petitioners relied upon B.P.Ms. No. 61 and B.P.Ms. No. 233 and other proceedings of "the Board".

17. This Writ Petition and the prayer sought is misconceived in my opinion. The basic fact is that there are several services and departments in "the Board" governed by separate set of statutory regulations, viz., Secretariat Service; Accounts Service; Maintenance Service, Administrative Service; Educational Service; Security Service; Medical Service and General Service. It is stated in the counter that each of the services are distinct and separate entities governed by distinct and separate service regulations. Persons are recruited separately to those services as per the service regulations governing the same, like-wise pay scales etc. Therefore, there cannot be a common seniority list of all the employees of "the Board" working in different services.

18. B.P. Ms.No.61, dated 21-1-1976 and B.P. Ms. No. 233, dated 24-3-1976 were

issued by way of administrative instructions along with other proceedings, viz., B.P.Ms. Nos. 46,838,1241 etc. Those proceedings were issued by "the Board" having regard to the fact that each department, prior to 1976, was dealing with all the functions including personnel functions, preparation of pay rolls, administrative functions etc., in respect of the employees of the respective Departments. Therefore, to avoid this duplication and the delays etc., as mentioned above, "the Board" requested the Administrative Staff College of India, Hyderabad, to suggest ways and means as to how the same can be reorganized. Pursuant to the report submitted by the consultants, "the Board" reorganized its services on functional basis. As stated earlier, the report of the consultants was accepted by "the Board" by its resolution, dated 28-6- 1978. Consequently, B.P. Ms. Nos. 636 and 637, dated 29-6-1984 were issued and the persons were drawn from the other services and merged into one service in each of the departments, viz., Personnel Management Cell, General Services Cell etc. The earlier Writ Petitions filed by such of those persons, who were drawn from the other departments and made part of a single service in the Personnel Management Cell, with regard to their conditions of service after merger, have nothing to do with the present Writ Petition as the petitioners herein were not merged or drawn into any other department. They remained in F.A., and C.C A., services and governed by separate set of service regulations. What all they allege is since the "personnel functions" was being centralised and looked after by the department headed by the Director (Personnel) with effect from the reorganization (B.P.Ms. No. 61, dated 21-1-1976), they should be deemed to fall under the exclusive jurisdiction of the Director of Personnel. This is wholly unsustainable and fallacious. Merely because the pay rolls are being prepared and financial aspects are being looked into by the Finance Department of all the employees of the organization, it does not mean that all the employees come under the Finance Department. Likewise, if personal matters connected with recruitment, promotion etc., which are being looked into by the newly created department of Personnel Management Cell, headed by the Director (Personnel), it does not mean that all the employees in all the services of "the Board" will become part of the Personnel Department. "The Board" itself is reorganized on functional basis and persons who now form part of the particular department and governed by separate set of rules are distinct and separate. Therefore, the entire basis of the Writ Petition seeking the preparation of common seniority list and integration of the persons with the personnel either belonging to the new unit of Personnel Management Cell or General Services Cell is incorrect.

19. The reorganization was effected, according to the petitioners, on 21-1-1976 and B.P. Ms. No. 233 was issued on 24-3-1976. If the petitioners' grievance is that they were not integrated or drawn into those two departments, viz., Personnel Management Cell or General Services Cell, these Writ Petitions are barred by laches. This Writ Petition is filed in the year 1991 and, therefore, in any event, it is not possible to give any direction in that regard. Further the petitioners have not sought for any particular direction that they should, be

taken into the Personnel Management Cell or General Services Cell.

20. As stated earlier, since the petitioners are part and parcel of the F.A., and CCA. offices governed by separate set of rules for recruitment, promotion etc., the question of merging them with the other services, who are also governed by separate set of service rules, will not arise.

21. Further it should be noted that the recommendations of the consultants with regard to the transfer of staff dealing with personal matters from each department stated as follows:-

"While effecting transfers of staff dealing with personal matters from different departments to the personnel function, it would be necessary to identify only the required number of officers and staff for the above listed sub-functions."

Therefore, even according to the recommendations of the consultants it is only the required number of staff to be transferred from other departments to the newly constituted Personnel Management Cell. Therefore, whatever staff is required, "the Board" must have transferred them from different departments to the newly formed Personnel Management Cell. The report of the consultants, which is accepted by "the Board", is not to the effect that every one of the staff members looking after personal matters in all the departments should be drawn and transferred to the newly formed Personnel Management Cell. Further, the question of merging the petitioners to Personnel Management Cell or General Services Cell at this distance of time will not be feasible. The petitioners must have earned promotions and some of them must have retired and that it may not be possible to equate the services as on 1976.

22. It is then contended by Sri Jogayya Sarma, Counsel appearing for the petitioners that the Writ Petition cannot be thrown out on the ground of laches and for the said contention he relied upon the Judgment in Haryana State Electricity Board Vs. State of Punjab and Haryana and Others, . Having regard to the peculiar facts and circumstances of the case, I am of the opinion that this judgment has no application to the facts of the present case. Likewise, the learned Counsel for the petitioners also contended, relying upon the judgment in Purshottam Lal and Others Vs. Union of India (UOI) and Another, ., that non-implementation of the decision of the consultants to the service personnel in regard to F.A., and C.C.A., offices is in violation of Article 14 of the Constitution of India, also has no substance for the reasons mentioned above. The consultants have not stated that every one of the persons, who is discharging personnel functions, should be taken into the newly constituted Personnel Management Cell. In fact, the report leaves the requirement to "the Board".

23. Therefore, I am of the opinion that there is no substance in the Writ Petition. Accordingly the Writ Petition is dismissed. But, in the circumstances, no order as to costs.