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**(1996) 08 AP CK 0046**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No. 2942 of 1989**

K. Sathaiah and Others

APPELLANT

Vs

The A.P. State Electricity Board and Others

RESPONDENT

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**Date of Decision : 20-08-1996**

**Acts Referred:**

**Citation :** (1996) 4 ALD 442 : (1996) 4 ALT 250

**Hon'ble Judges :** S. Parvatha Rao, J;B.V. Ranga Raju, J

**Bench :** Division Bench

**Advocate :** V. Chandrasekhar, Koka Satyanarayana Rao, G. Vidya Sagar and K. Nageswara Reddy, for the Appellant; C.V. Mohan Reddy, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

S. Parvatha Rao, J.—The petitioners in these writ petitions were taken as casual labourers in the various divisions of the Andhra Pradesh State Electricity Board prior to 1981. Pursuant to the agreement reached between the workers' union and the Electricity Board, they applied for absorption in the posts of Helpers, etc. But the respondents refused to absorb them on the ground that they were more than 25 years even at the time when they were first taken in as casual labourers. It is not in dispute that they were otherwise qualified and that the only ground on which they were refused absorption is that they were thus over-aged because the maximum age for employment in the posts of Helper, etc., was at the relevant time 25 years - it continues to be so even now.

2. The petitioners contend that their cases are covered by a decision of a learned Single Judge of this Court in W.P. No. 16132 of 1992 dated 29-8-1994. The Board preferred an appeal against the said judgment by way of Writ Appeal No. 170 of 1995. A Division Bench of this Court heard W. A.No. 170 of 1995 and another writ petition i.e., W.P. No. 1214 of 1989, together and by its judgment dated 19-4-1996 refused to interfere with the judgment of the learned Single Judge and dismissed the writ appeal and allowed W.P. No. 1214 of 1989 in terms of the judgment of the learned Single Judge. In those cases also the petitioners in the

writ petition were employed as casual labourers by the Board and they also crossed the age of 25 years by the time they were first taken as casual labourers. Before the Division Bench, on behalf of the writ petitioners, it was contended that fixing the maximum age of 34 years for direct recruitment to certain posts and 25 years to the posts to be filled up by the ex-casual labourers was discriminatory in nature. The Division Bench held that the question as regards age limit and requisite qualifications to be fixed was always at the discretion of the management and therefore was not inclined to inquire into the reasonableness of the maximum age limit of 25 years fixed for appointment to the posts to which ex-casual labourers were to be absorbed. Then the Division Bench observed in respect of ex-casual labourers before it as follows:

"But in the present case the respondent in W.A.No. 170 of 1995 and the petitioners in W.P. No. 1214 of 1989 joined as casual labourers long back and they are pursuing the matter since long time. The learned Judge while allowing the writ petition (W.P. No. 16132 of 1992) relied on a case of rejection of claim of an ex-casual labour who was under-aged at the time of appointment decided in W.P. No. 804 of 1988 by the Hon"ble Sri Justice Sivaraman Nair on 1-9-1988. Even though we are not in complete agreement with the view expressed by the Hon"ble Sri Justice Sivaraman Nair, at this stage, we do not want to interfere in this writ appeal and the writ petition.

Having regard to the special circumstances of the case, we dispose of the writ appeal and the writ petition as indicated above."

The Division Bench also observed that "the Electricity Board shall frame statutory rules regarding the age limit and educational qualifications for absorbing the casual labourers in regular vacancies so that in future no discrepancies will arise". The learned Standing Counsel for the Electricity Board has not brought to our notice any rules framed by the Board pursuant to the observation, of the Division Bench. We are of the view that the considerations which persuaded the earlier Division Bench in dismissing the writ appeal and allowing the writ petition are compelling enough to persuade us as well to take the same view. The learned Standing Counsel strove hard to convince us that the agreement reached between the workers' union and the Andhra Pradesh State Electricity Board specifically provided that ex-casual labourers would be absorbed subject to they being qualified and suitable. As observed by the earlier Division Bench, there was considerable time lag between the period when ex-casual labourers were first employed as such and the time when the said agreement was reached; and a further time lapse since the agreement and the time when ultimately the Board started considering the claims of the ex-casual labourers pursuant to the said agreement reached. If the qualifications referred to in the agreement also included that relating to the maximum age, then obviously most of the ex-casual labourers would miss the bus depending upon the time taken by the Board in considering their cases i.e., if the age qualification is to be applied at the time when they are to be absorbed regularly. It is not the case of the learned

Standing Counsel that anything in the said agreement would suggest that the ex-casual labourers must have satisfied the age qualification with reference to their first employment as ex-casual labourers. In fact for employment as casual labourers no age qualification was prescribed or followed as is evident from the fact that many of the ex-casual labourers were over-aged by the time when they were first given employment as casual labourers. Further, there is no dispute as regards the number of days each of the petitioners worked as casual labourers. In the circumstances, we are of the view that it would be most unreasonable to read in the age qualification in respect of ex-casual labourers who are to be considered for regular absorption pursuant to the agreement reached between the workers' union and the Andhra Pradesh State Electricity Board. We are, therefore, not persuaded to take a view different from that of the earlier Division Bench in W.A.No. 170 of 1995 and W.P. No. 1214 of 1989.

3. In the result, these writ petitions are allowed and we direct the respondents to consider the cases of the petitioners for appointment on regular basis in terms of the Board's memos dated 26-8-1985 and 5-10-1988 (issued pursuant to the agreement reached between the workers' union and the Board) without disqualifying them on the ground that they crossed the age of 25 years by the date of their engagement as casual labourers, subject to verification as regards the number of days put in by each one of them. No costs.