

**(2012) 02 KAR CK 0060**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 1249 of 2012 C/W**

Sakamma H.M.

APPELLANT

Vs

Karnataka Power Transmission Corporation Limited (KPTCL)

RESPONDENT

**Date of Decision :** 29-02-2012

**Acts Referred:**

Constitution of India, 1950 — Article 14, 15, 15 (1), 15 (2), 16

**Citation :** (2012) 02 KAR CK 0060

**Hon'ble Judges :** H.N. Nagamohan Das, J

**Bench :** Single Bench

**Advocate :** Ravi Verma Kumar in all Appeals, for the Appellant; P.S. Dinesh Kumar in all appeals, for the Respondent

**Final Decision :** Allowed

## Judgement

H.N. Nagamohan Das

1. In these writ petitions the petitioners have prayed for a writ in the nature of certiorari to strike down the notification dated 17.8.2010 Annexure-L amending the Karnataka Electricity Board Recruitment & Promotion Regulations, Employees [Probation] Regulations and Employees [Seniority] Regulations in so far as it relates to the recruitment and minimum qualification prescribed for the post of Assistant Lineman; to quash the notification dated 12.12.2011, Annexure-M inviting applications for the post of Assistant Lineman and for a writ of mandamus to allow the petitioners to apply for the post of Assistant Lineman. The erstwhile Karnataka Electricity Board was entrusted with the job of the electrical power transmission and distribution. Subsequently, this Karnataka Electricity Board was renamed as "Karnataka Power Transmission Corporation Limited" i.e., the respondent herein. The respondent established an Industrial Training Centre to impart training for both male and female candidates. The purpose of establishing the industrial training center was to impart three years vocational training in Lineman/Electrician vocational course. Upon completion of three years training in the training centre and passing the prescribed test

conducted by National Council for vocational training, the successful candidates were being awarded with National Apprenticeship certificate by the National Institute for vocational training. The respondents are having regulations called the Karnataka Electricity Board Recruitment & Promotion Regulations, Employees [Probation] Regulations and Employees [Seniority] Regulations (hereinafter called as "Regulations") These regulations prescribe the method of recruitment and the minimum qualification for the post of Assistant Lineman and the same is as under:

Category of Post

Existing

Method of Recruitment

Minimum Qualification

Assistant Lineman

- a) 50% of the sanctioned posts by Direct Recruitment of ITI qualified candidates.
  - i) Should have a pass certificate of 18/24 months course in "Electrician" / Electronics"/ "Electronic Mechanic" Trade from Industrial Training Institutes (ITI"s) recognized by the Government of Karnataka.
- b) 30% of the sanctioned posts by Direct Recruitment of candidates possessing a pass certificate of three years "Lineman trade"/ "Electrician trade" imparted by the Industrial Training Institutes of KEB/KPTCL.
  - i) Should have passed 10th Standard examination and Should have a pass certificate of three years "Lineman trade"/ "Electrician trade" imparted by the Industrial Training Institution of KEB/KPTCL.
- c) 20% of the sanctioned posts by promotion from the cadre of Junior lineman on the basis of seniority-cum-merit.
  - i) Should have satisfactory physical fitness and mental ability.
  - ii) Should be suitable and should have experience for the job requirement
  - iii) Should have experience in the type of work connected to the post of Junior Lineman and should be capable to carry out the work required for the post of Assistant Lineman.
  - iv) These should be assessed and reported by the official superiors through reports.

2. The above regulation specifies that 30% of the Assistant Lineman posts are reserved for direct recruitment of candidates possessing certificate of three years in Lineman trade/Electrician trade from Industrial Training Institutes of KEB/ KPTCL. Thus the certificate holders from the Industrial Training Centre established by the respondents were having a right to be appointed as Assistant

Lineman in their establishment. Now the respondents have amended the regulations as per Annexure-L dated 17.8.2010. The amended regulations reads as under;

Category of Post

Amended as

Method of Recruitment

Minimum Qualification

Assistant Lineman

a) 40% of the sanctioned posts by Direct Recruitment of ITI "Electrician" qualified candidates.

i) Should have a pass certificate of 18/24 months course in "Electrician" trade from Industrial Training Institutes (ITI's) recognized by the Government of Karnataka.

b) 40% of the sanctioned posts by Direct Recruitment of ITI "Electronics" qualified candidates.

i) Should have a pass certificate of 18/24 months course in "Electronics/ Electronic Mechanic" trade from Industrial Training Institutes (ITI's) recognized by the Government of Karnataka.

c) 20% of the sanctioned posts by promotion from the cadre of Junior Lineman on

i) Should have satisfactory physical fitness and mental ability.

the basis of seniority-cum-merit.

ii) Should be suitable and should have experience for the job requirement.

iii) Should have experience in the type of work connected to the post of Junior Lineman and should be capable to carry out the work required for the post of Assistant Lineman,

iv) Should have put in a minimum service of three years as Junior Lineman.

v) These should be assessed and reported by the official superiors through reports.

3. A reading of the amended regulations specifies the exclusion of the candidates who have secured a certificate from the Industrial Training Center established by the respondents from applying to the post of Assistant Lineman. Petitioners who are the certificate holders from the respondent Industrial Training Center being aggrieved by the amended regulations are before this court.

4. The industrial training center established by the respondents was training both male and female candidates. According to the respondents, this training center

came to be closed in the year 2005. Upto 2005 both male and female candidates who were possessing ITC certificates were appointed as Assistant Lineman. Now under the impugned notification at Annexure-M the female candidates are barred from applying to the post of Assistant Lineman. The petitioners who are lady candidates are before this court for a writ of certiorari to quash Annexure-M.

5. Heard arguments on both the side and perused the entire writ papers. The following two points will arise for consideration :

i) Whether the impugned amended Regulations are opposed to principles of promissory estoppel ?

ii) Whether the exclusion of women from being appointed as Assistant Lineman is violative of Article 14, 15 and 16 of the constitution ?

On Point No. (i):

6. It is not in dispute that the respondents by investing huge money established the industrial training center of their own. The object of establishing the training center is to train the candidates in the field of Lineman trade/Electrician trade who will be more useful for the work of Assistant Lineman in the respondent establishment. Upto 2007 the respondents have recruited the candidates who are having ITC certificate as Assistant Lineman. The regulations prior to 17.8.2010 specifies that 30% of the sanctioned posts of Assistant Lineman were reserved for ITC certificate holders from the respondent-training center. Now under the amended regulations as per Annexure-L dated 17.8.2010 the reservation to the ITC certificate holders is removed and further it specifies that only ITI certificate holders are eligible to apply for the post of Assistant Lineman. Thus the petitioners who are ITC certificate holders are totally bared from applying to the post of Assistant Lineman.

7. No material is placed on record to show that the ITC holders are incapable of discharging the work of Assistant Lineman. On the other hand upto the year 2007, the respondents have recruited candidates who possess ITC certificate for the post of Assistant Lineman. All of a sudden now under the impugned amended regulations, the ITC certificate holders are totally bared from applying to the post of Assistant Lineman and as such the same is discriminative and bad in law.

8. The respondents by investing huge money established industrial training center and imparted training in "Lineman trade/Electrician trade". The training so imparted is suitable to the post of Assistant Lineman. Upto the year 2007, the ITC holders were eligible to apply for the post of Assistant Lineman. Under the unamended regulations, 30% of the posts of Assistant Lineman were reserved to the candidates who possess a pass certificate in Lineman Trade/Electrician trade from the respondent training institute. Thus the respondents have held a promise to the candidates who possess a pass certificate from their institute for appointment as Assistant Lineman and further assured 30% reservation to them. Therefore, the petitioners who are possessing ITC certificates from the

respondent - institute legitimately expects that they will be appointed as Assistant Lineman. In identical circumstances, the Supreme Court in Rampravesh singh and others vs. State of Bihar (2006)8 SC 381 held as under:

15. What is legitimate expectation ? Obviously, it is not a legal right It is an expectation of a benefit, relief or remedy, that may ordinarily flow from a promise or establishes practice. The term "established practice" refers to a regular, consistent, predictable and certain conduct, process or activity of the decision-making authority. The expectation should be legitimate, that is reasonable, logical and valid. Any expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be a legitimate expectation. Not being a right, it is not enforceable as such. It is a concept fashioned by the courts, for judicial review of administrative action. It is procedural in character based on the requirement of a higher degree of fairness in administrative action, as a consequence of the promise made, or practice established. In short, a person can be said to have a "legitimate expectation" of a particular treatment, if any representation or promise is made by an authority, either expressly or impliedly, or if the regular and consistent past practice of the authority gives room for such expectation in the normal course. As a ground for relief, the efficacy of the doctrine is rather weak as its slot is just above "fairness in action" but far below "promissory estoppel". It may only entitle an expectant : (a) to an opportunity to show cause before the expectation is dashed; or (b) to an explanation as to the cause for denial. In appropriate cases, the courts may grant a direction requiring the authority to follow the promised procedure or established practice. A legitimate expectation, even when made out, does not always entitle the expectant to a relief. Public interest, change in policy, conduct of the expectant or any other valid or bona fide reason given by the decision-maker, may be sufficient to negative the "legitimate expectation". The doctrine of legitimate expectation based on established practice (as contrasted from legitimate expectation based on a promise), can be invoked only by someone who has dealings or transactions or negotiations with an authority, on which such established practice has a bearing, or by someone who has a recognised legal relationship with the authority. A total stranger unconnected with the authority or a person who had no previous dealings with the authority and who has not entered into any transaction or negotiations with the authority, cannot invoke the doctrine of legitimate expectation, merely on the ground that the authority has a general obligation to act fairly.

9. Therefore, the impugned amended regulations at Annexure-L excluding the ITC certificate holders and removing the reservation to them in the matter of recruitment to the post of Assistant Lineman is discriminative and contrary to the principle of legitimate expectation. Therefore, the impugned amended regulations are liable to be quashed.

On Point No. (ii):

10. A study conducted by the International Labour Organisation discloses that

50% of world's population are women, they constitute 30% of labour force and contributes 60% all working hours. Yet women receive only 10% of world's income and they own less than 1% of world's property. Through out history, in all parts of the world and in all religions women are treated as secondary citizens. The important reasons for this discrimination of women are political disempowerment, economical disempowerment, social prejudices and religious prescriptions. To end this gender inequality and discrimination our constitutional makers incorporated several provisions in our constitution. The preamble aims at equality of status and opportunity to all people. Article 14, 15(1) and (2) and 16(1) and (2) prohibit discrimination against any citizen on the ground of sex among other grounds. The directive principles of State policy directs the State Government to protect the rights of women, right to equal pay for equal work, the right to maternity benefit, gender justice etc. The State is empowered to make laws providing reservation for women in employment, education and local self governance. The Governments of India and the State Governments enacted number of laws, brought several programmes and schemes for the welfare of women. The judiciary has played significant role in promoting the welfare of women. Despite these legislations, judicial pronouncements, programmes and schemes the conditions of women remained unabated.

11. Men and women both work. The work of men is measured in terms of money. But the work of women to a great extent remains unaccounted and not measured in terms of money.

In rural India women work in agriculture, plantation, fisheries, poultry, dairy, sericulture etc. Large number of women are employed in garment units, food processing, rolling beedis and agarbathis etc. Women contribute more than 50% of labour force in construction industry which includes erection of residential, industrial, commercial and other buildings. It also includes heavy civil engineering works like roads, highways, dams, canals, tunnels, pipelines, ropeways, city beautification works etc. It involves carrying bricks, cement, sand, water, breaking stones, digging earth etc.

12. Not only women performs more tasks and work long hours it also involves harder work and hazardous work. They walk miles to get a pot of drinking water, climb tough hills to collect firewood and fodder to the cattle. The work of transplantation and weeding in agricultural fields require long hours of bending. The women are doing more hazardous work in areas like stone crushers, bricks manufacturing, rolling beedis and agarbathis, cooking, mining, construction works etc. Therefore there is no justification for the respondents to bar women being appointed to the post of Assistant Lineman on the ground that they are not capable of discharging hand and hazardous work of lineman.

13. Only a small percentage of women are employed in the organised sector. These women in the organised sector are protected under laws, their hours of work is regulated, they are getting equal pay for equal work and are availing special facilities such as maternity leave etc. Large number of women working in

the unorganised sector are deprived from these benefits and facilities. Therefore the need of the hour is to bring more women under the umbrella of organised sector. It is equally important to bring more areas under the organised sector. On the contrary the respondents are excluding women from the organised sector.

This approach of the respondents is discriminative and opposed to the constitutional philosophy.

14. It is not in dispute that the respondents have adopted the General Recruitment Rules of Karnataka Civil Services. Rule 9 (1-B) of the Rules reads as under:

Notwithstanding anything contained in the rules of recruitment specially made in respect of any service or pose, in all direct recruitment thirty percent of vacancies set apart for that method in each of the categories of General Merit, Scheduled Castes, Scheduled Tribes and in each of the categories among other backward classes shall, subject to any general instructions that may be issued by the Government regarding the manner of appointment, be filled from among women candidates:

Provided that if sufficient number of eligible women candidates are not available to the extent of thirty per cent, the sunfilled vacancies shall be filled by men candidates belonging to the same category:

Provided further that nothing in this rule shall prevent the women candidates from competing and for being considered against seventy per cent of direct recruitment vacancies, if selected on the basis of merit:

Provided also that the Government may, by notification exclude any service or post from the application of the provision of this sub-rule.

15. Further the unamended Rules of the respondent Corporation do not bar the female candidates from applying to the post of Assistant Lineman. Even the amended Regulation as per Annexure-L do not bar the women from applying to the post of Assistant Lineman. But under the impugned notification dated 12.12.2011 as per Annexure-M inviting applications for the post of Assistant Lineman is restricted only to male candidates and thus barring the women from applying. Therefore, the impugned notification, Annexure-M is contrary to the General Recruitment Rules and the Regulations of the respondent Corporation. On this ground the impugned notification Annexure-"M" in so far as it relates barring women from applying is bad in law.

16. It is not in dispute that in the Industrial Training Centre established by the respondents they trained both male and female candidates. Further it is not in dispute that hundreds of female candidates have successfully completed three years training course in the training Institute. Upto 2005 the respondents have recruited the female candidates for the post of Assistant Lineman. But under the impugned notification at Annexure-M the female candidates are totally barred from applying to the post of Assistant Lineman. The contention of the learned

counsel for the respondents that female candidates are not suitable and fit to discharge the duties of Assistant Lineman is unacceptable to me. Before disqualifying the female candidates from applying to the post of Assistant Lineman, the respondents have not conducted any field survey nor scientific survey to demonstrate that female candidates are incapable of discharging the duties of Assistant Lineman. Though learned counsel for the respondent with a memo dated 17.02.2012 produced certain representations said to have been given by some women expressing difficulties in discharging the duties of Assistant Lineman, the same cannot be the basis from barring all the women from applying to the post of Assistant Lineman.

17. Learned counsel for the respondent relying on a judgment of the Kerala High Court in W.A. No. 2220/2007 between the Kerala State Electricity Board Vs. Siniya Mol and others disposed on 21.11.2007 contend that the work to be carried out by the Electricity workers is hazardous nature and risk and requires considerable physical exertion which the women employee could not be met. Women workers are also entitled to maternity benefits and they cannot engage the work during the entire period of pregnancy, otherwise which would affect the total efficiency of the Board, it may also affect the public interest. I am not persuaded by the reasoning of the Kerala High Court. It is needless to say that all the recruited women as Assistant Lineman will not go for pregnancy at one time. Further if one or two women are not capable of discharging the hazardous nature of work, it cannot be said that all women are incapable of doing such work. There is no evidence on record to show that the women are incapable of discharging the work of Assistant Lineman.

18. The respondents having trained the women candidates as ITC certificate holders in Lineman trade/electrician trade, cannot now deny the opportunity to apply to the post of Assistant Lineman on the ground that they are not capable of discharging the duties attached to the post. This act on the part of the respondents is discriminative. The Supreme Court in Anuj Garg and Others Vs. Hotel Association of India and Others, held as under:

35. Privacy rights prescribe autonomy to choose profession whereas security concerns texture methodology of delivery of this assurance. But it is a reasonable proposition that the measures to safeguard such a guarantee of autonomy should not be so strong that the essence of the guarantee is lost. State protection must not translate into censorship.

36. At the same time we do not intend to further the rhetoric of empty rights. Women would be as vulnerable without State protection as by the loss of freedom because of the impugned Act. The present law ends up victimising its subject in the name of protection. In that regard the interference prescribed by the State for pursuing the ends of protection should be proportionate to the legitimate aims. The standard for judging the proportionality should be a standard capable of being called reasonable in a modern democratic society.

37. Instead of putting curbs on women's freedom, empowerment would be a more tenable and socially wise approach. This empowerment should reflect in the law enforcement strategies of the State as well as law modelling done in this behalf

38. Also with the advent of modern State, new models of security must be developed. There can be a setting where the cost of security in the establishment can be distributed between the State and the employer.

19. Therefore, the impugned notification issued by the respondents totally barring the women from applying to the post of Assistant Lineman is gender discrimination, contrary to the constitutional philosophy and the law declared by the Apex Court. Therefore the impugned notification at Annexure-M in so far as it relates to barring the women and the ITC certificate holders is bad in law. The impugned notification at Annexure-M was issued on 12.12.2011 inviting applications from eligible candidates for the post of Assistant Lineman. The last date for submitting the applications was on 11.01.2012. The respondents in their statement of objections contend that they have received 2,46,000 applications as against 2000 vacancies. In the circumstances, it is necessary to protect the interest of candidates who have already applied. For the reasons stated above the following:

#### ORDER

I) Writ petitions are hereby allowed.

II) The impugned amended regulations as per Annexure-L dated 17.08.2010 is hereby quashed.

The Regulations as it stood prior to the date of amendment is restored.

III) It is declared that the ITC certificate holders from the respondent Institute are eligible to apply for the post of Assistant Lineman as per the notification dated 12.12.2011, Annexure-M.

IV) It is declared that female candidates possessing ITC and ITI pass certificates are also eligible to apply for the post of Assistant Lineman as per notification dated 12.12.2011, Annexure-M.

V) The respondents shall issue a Corrigendum to Annexure-M dated 12.12.2011 on or before eight days from today, inviting applications both from male and female candidates possessing ITC and ITI pass certificates to the post of Assistant Lineman fixing the last date for receiving applications within two weeks from the date of corrigendum.

VI) The candidates who have already applied to the post of Assistant Lineman need not apply again.

VII) On receipt of the applications as stated above the respondent shall consider all the applications in accordance with the Regulations and Law and complete the

process of selection. Ordered accordingly.