
(2025) 04 SC CK 0311

In the Supreme Court Of India

Case No : Civil Appeal No. 4724 Of 2025 Arising Out Of Special Leave Petition
(Civil) No. 476 Of 2021

Superintending Engineer, Operation, Telangana State
Southern Power Distribution Company Ltd. & Ors

APPELLANT

Vs

Ch. Bhaskara Chary

RESPONDENT

Date of Decision : 02-04-2025

Acts Referred:

Citation : (2025) 04 SC CK 0311

Hon'ble Judges : Pamidighantam Sri Narasimha, J; Joymalya Bagchi, J

Bench : Division Bench

Advocate : Sravan Kumar Karanam, Shireesh Tyagi, P. Geetanjali, Vikas Mehta,
Basa Mithun Shashank

Final Decision : Disposed Of

Judgement

Pamidighantam Sri Narasimha, J

1. Leave granted.

2. The present appeal arises from order dated 02.12.2020 by which the division bench of the High Court dismissed the appellant's writ appeal against order dated 24.09.2018 wherein the learned single judge directed the appellant to consider the respondent's appointment to the post of Lower Division Clerk "LDC" or any other suitable post or any other supernumerary post.

3. The short facts that are relevant are as follows. The Andhra Pradesh State Electricity Board "APSEB" issued a notification dated 18.05.1997 to fill up 50% vacancies in certain initial recruitment cadres, including LDCs, from ex-casual labourers category. Clauses 5 and 6 of this notification provided the guidelines for selection of candidates from this category, including age, educational qualifications, seniority, reservations, and selection committee. Under this policy, APSEB issued an advertisement dated 11.03.2001 for appointment to the post of LDC from ex-casual labourers category. The

respondent sought to claim benefit under this policy and applied but his application was rejected on 21.01.2002 stating that his service certificate of contract labour was not genuine. The appellant challenged this order by way of a writ petition and the High Court directed the appellant to verify his certificate by order dated 24.12.2002.

4. Once again, by order dated 13.03.2003, the respondent's case was rejected as the contractor who issued the service certificate deposed that the respondent did not work under him. Further, by order dated 14.04.2003, the appellant found that the respondent did not qualify the typewriting exam and hence could not be considered for the post. The respondent challenged the order dated 14.04.2003 in a writ petition, which came to be disposed of by the High Court order dated 01.11.2004 holding that the typewriting qualification is not required and therefore, directed the appellant to reconsider his case afresh.

5. Pursuant to the above-referred direction of the High Court, the appellant's Review Committee re-examined the respondent's case, and yet again rejected his appointment by order dated 28.03.2006. This time, on a new ground that there is no vacancy in the BC-B category in LDC cadre under the 50% quota earmarked for ex-casual labourers, and that no BC-B candidate who has put in lesser man-days than the respondent was appointed. On 15.11.2006, the appellant issued a further notification withdrawing the policy dated 18.05.1997 w.e.f 15.09.2006, subject to the outcome of any pending cases before the High Court or this Court.

6. The respondent filed a writ petition, only in the year 2008, challenging the Review Committee's order dated 28.03.2006. Initially, by order dated 26.04.2017, the learned single judge dismissed the writ petition on the ground of delay in approaching the High Court and in view of the subsequent withdrawal of the policy. However, the respondent's review petition came to be allowed by the learned single judge by order dated 24.09.2018 on the ground that the respondent's name appears at sl. no. 22 in the list of eligible candidates, while those at sl. nos. 23 and 28 in the same list were appointed. The Court reasoned that since those who were relatively less meritorious were considered favourably pursuant to the High Court's direction in a separate writ petition, the respondent must be treated at par with them as he is in a relatively better position. Hence, the Court directed the appellant to consider the respondent's case for appointment to the post of LDC or any other suitable post or any suitable supernumerary post in the same manner as the other case. The appellant's writ appeal came to be dismissed by the order impugned herein, on a similar reasoning that the respondent's case must be treated at par with the other appointed candidates as he is higher in the list of eligible candidates.

7. While issuing notice by the order dated 22.02.2021, this Court took note of the appellant's submission that the list relied on by the High Court wherein the respondent appears at sl. no. 22 is not a seniority list but only a list of eligible candidates, and also stayed the operation of the impugned order. Further, by

order dated 26.04.2024, this Court directed the appellant to file an affidavit to the following effect:

- (i) Whether there was any workable gradation/seniority list of the contractually appointed employees like the respondent?
- (ii) What was the criteria followed for regular appointment in terms of the policy decision?
- (iii) Whether candidates, who have served for less man-days than the respondent on contractual basis, have been absorbed on regular basis?
- (iv) If so, whether the claim of the respondent was ever considered along with such employees?
- (v) Whether the respondent can be adjusted against a future vacancy as and when arises without payment of any backwages?

8. Pursuant to this order, the appellant filed an affidavit dated 04.07.2024 furnishing the requisite information as follows:

(i) There is no workable gradation/seniority list of contractually appointed workers like the respondent as they were not employees. The list of qualified candidates was prepared based on their service certificates from their respective contractors and after taking man-days into consideration for conducting interviews to the post of LDC.

(ii) That the qualifications for appointment under the notifications dated 18.05.1997 and 11.03.2001 are stipulated in paragraphs 5 and 6 of the 18.05.1997 notification.

(iii) That 6 candidates with less man-days than the respondent have been appointed under the 18.05.1997 notification. However, the respondent only applied under the second notification issued on 11.03.2001. Under this notification, M. Laxminarsu (BC-B), M. Bhaskar (BC-A), and A. Karunakar Reddy (OC), who have served less man-days than the respondent, were appointed pursuant to the High Court's direction in certain other writ petitions. However, the appointment of M. Laxminarsu (BC-B) and M. Bhaskar (BC-A) was prior to the withdrawal of the policy. Further, that as per the report of the Inspector of Police dated 21.01.2002, the respondent's service certificate is not genuine as the contractor who issued the same has deposed that the respondent did not work under him.

(iv) The respondent's case was considered with similarly situated persons. However, as his service certificate was not genuine, he was not appointed. His appointment was rejected by the Review Committee's speaking order dated 28.03.2006.

(v) Since the respondent's service certificate is not genuine, he cannot be considered for appointment in any future post. Further, all vacancies in all cadres

are being filled through direct recruitment.

9. We have heard Ms. Aishwarya Bhati, learned ASG for the appellant and Mr. Basa Mithun Shashank, learned counsel for the respondent.

10. The appellant's case before us is that the list relied on by the High Court is not a seniority list but only a list of candidates having minimum qualification, who are eligible to attend the interview. However, upon closer scrutiny, we must reject this submission for the following reasons. First, this list has been placed before us by the respondent and is titled "Seniority list of qualified candidates for the post of L.D.C.s". A perusal of the list also shows that candidates have been arranged in accordance with the date of their first engagement, with those engaged prior in time being placed higher on the list. Second, in the affidavit dated 04.07.2024, the appellant admits that persons with lesser man-days than the respondent were appointed to the post under the 11.03.2001 notification, pursuant to the direction of the High Court in certain other writ petitions. The relevant portion of the affidavit is extracted below:

"It is submitted that six (6) candidates who have served for less man-days than the respondent on contractual basis, have been absorbed on regular basis in the 1st Notification, to which notification the respondent was not a candidate. Two more candidates namely M. Laxminarsu (BC-B), M. Bhaskar (BC-A) and A. Karunakar Reddy (OC) who have served for less man-days than the respondent on contractual basis have been absorbed on regular basis in the 2nd notification on the basis of the order of the Hon'ble High Court in Writ Petition Nos. 26515 of 2004 and 858 of 2009. B.P.Ms. No.36 was withdrawn vide C.O.O (CGM-HRD) Ms. No. 470, dt. 15.09.2006. It is pertinent to mention here that Sri. M Laxminarsu (BC-B) and M. Bhaskar (BC-A) were appointed prior to withdrawal of B.P.Ms. No.36."

11. Upon contrasting the appointed candidates, as submitted by the appellant, with the seniority list placed before us by the respondent, we find that M. Bhaskar (BC-A) and M. Laxminarsu (BC-B) appear at sl. nos. 23 and 28 respectively. In this view of the matter, we reject the appellant's submission that the list relied on by the High Court was not a seniority list and find that the High Court has correctly reasoned that candidates with lesser man-days than the respondent, who are placed relatively lower than the respondent in the seniority list, have been appointed and hence the respondent's case must be considered by the appellant on par with them.

12. The appellant has also taken other grounds before us, namely that the respondent's service certificate is not genuine as the contractor who issued the same has deposed that the respondent did not work under him. Further, that there are no vacancies against which the respondent can be appointed. These issues cannot be decided by the Supreme Court. At this stage, it is necessary to refer to the specific directions of the learned single judge of the High Court disposing of the writ and review petitions, which we have extracted hereinunder:

"7. ...It is also an undisputed fact that the cases of the said two persons, who are relatively less meritorious, were considered and their cases were considered suitably by the respondents. The petitioner in a way is requesting to direct the respondents to consider his case in the same manner and on par with cases of the above said two person notwithstanding the orders in this writ petition. In that view of the given to the respondents to consider his case in the same manner and on par with the cases of the writ petitioners is W.P. No. 2651 of 2004, as he is relatively in a better position in the list of than the above said two persons, this court is of the considered view that the review petition can be disposed of granting an appropriate relief to the petitioner.

8. Accordingly, the review petition is disposed of directing the respondents to consider the case of the petitioner for the post of LDC or any other suitable post or any suitable supernumerary post in the same manner as was done in the cases of the writ petitioners in W.P No. 265 of 2004 and on par with the said writ petitioners..."

13. It is evident from the above that the appellant was directed to consider the case of the respondent in the context of the relative facts indicated in the order.

14. The direction of the single judge, when challenged before the division bench, culminated in a similar direction to the appellant as even the division bench found it appropriate that the respondent's case, in the context of appointment of candidates at sl. nos. 23 and 28, requires to be reconsidered. The relevant portion of the division bench's order is extracted below:

"5. ... The petitioners in WP.No.2651 of 2004, who are also similarly placed as that of the petitioner herein and found at Sl.Nos.23 and 28 in the list, were regularized pursuant to the order passed in the said writ petition. The petitioner herein cannot be given a differential treatment. The case of the petitioner deserves to be considered on par with the petitioners in WP.No.2651 of 2004 for the reason that the petitioner is placed high up in the list of qualified candidates than the petitioners in the aforesaid writ petition and that the petitioner has got more man-days. The said fact was brought to the notice of the learned Single Judge in the review petition. Having considered the same, the learned Single Judge came to the conclusion that the petitioner has to be treated on par with the petitioners in WP.No.2651 of 2004 and allowed the review petition directing the respondents to consider the case of the petitioner to the post of LDC or any other suitable post or any suitable supernumerary post in the same manner as was done in the cases of the writ petitioners in WP. No 2651 of 2024 and on par with the said writ petitioners, notwithstanding the order dated 26.04.2017.

6. In view of the above observations, this Court does not find any merit in the writ appeal and the same is liable to be dismissed. It is, hereby, dismissed."

15. In view of the above, as we have rejected the contention of the appellant that the list relied on by the High Court is not a seniority list, the respondent's appointment shall not be rejected on this ground. However, while reconsidering

the case of the respondent for appointment to the post of LDC or any other equivalent post in which a vacancy may exist, they may take into account other aspects of the matter, which they sought to contend before us, and pass appropriate orders. Considering that the present litigation was initiated in 2008, we direct the appellant to pass orders as expeditiously as possible, preferably within a period of 6 weeks from today.

16. With these directions, we dispose of the present appeal.

17. No order as to costs.

18. Pending applications, if any, stand disposed of.