



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3457]

**TUESDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 38865/2012

Between:

1. K. SATYANARAYANA & 12 ORS., S/O. PEDA LINGAIAH, AAE/ELECL. , AGED ABOUT 54 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
2. B. RAGHAVA RAO,, S/O. KRISHNA RAO, AAE/MECH. , AGED ABOUT 54 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
3. N.S.R. KOTI REDDY,, S/O. KRISHNA REDDY, AAE/MECH. , AGED ABOUT 54 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
4. K.BHAVANICHAND,, S/O. CHALAPATHI RAO, AAE/EIECI.. AGED ABOUT 54 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
5. V. NAGESWARA RAO,, S/O. RAMAIAH, AAE/MECH. , AGED ABOUT 54 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
6. M. RAVI KUMAR,, S/O. KRUPA RAO, AAE/EIECI.. , AGED ABOUT 53 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
7. R. SRINIVASA RAO,, S/O. RAMA MURTHY, AAE/ELECL.. , AGED ABOUT 53 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
8. CH. SATYANARAYANA,, S/O. NAGABRAHMACHARI, AAE/ELECL.. , AGED ABOUT 52 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.

9. B. PREMCHAND,, S/O. SOBHANADRI, AAE/ELECL.. , AGED ABOUT 51 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
- 10.R.V.V. DEEKSHITULU,, S/O. NARASIMHACHARYULU, AAE/MECH. , AGED ABOUT 49 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
- 11.K. SRINIVASA RAO,, S/O. KISTAIAH, AAE/EIECI. , AGED ABOUT 49 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
- 12.K. ANILKUMAR,, S/O. PRASAD RAO, AAE/MECH. , AGED ABOUT 48 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.
- 13.P. SUBBA RAO,, S/O. RAMANAIAH, AAE/MECH. , AGED ABOUT 47 YEARS, DR. N.T.T.P.S., IBRAHIMPATNAM, KRISHNA DISTRICT.

...PETITIONER(S)

AND

- 1.CHAIRMAN AP GENCO HYD 3 ORS, VIDYUT SOUDHA, HYDERABAD.
- 2.THE MANAGING DIRECTOR APGENCO LTD, VIDYUT SOUDHA, HYDERABAD.
- 3.THE CHIEF GENERAL MANAGER ADMINISTRATION, APGENCO, VIDYUT SOUDHA, HYDERABAD.
- 4.THE CHIEF ENGINEER OPERATION AND MAINTENANCE, DR. NARLA TATARAO THERMAL POWER STATION, IBRAHIMPATNAM, KRISHNA DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus to declaring the action of the respondents in not regularizing the Service rendered by the petitioners from 31.08.1989 to 05.12.1996 as contract labour to pay the pension as against the principles of natural justice, illegal, arbitrary and violative of Article 14 of the constitution of India, and consequently direct the respondents to regularize the service rendered as a contract labour for the purpose of calculating the service for the payment of pension

IA NO: 1 OF 2012(WPMP 49302 OF 2012

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to take necessary steps on the representation dated 01.08.2012 submitted by the petitioners pending disposal of the writ petition

Counsel for the Petitioner(S):

1.S APPADHARA REDDY

Counsel for the Respondent(S):

1.K.KRISHNABUSHAN CHOWDARY SC For APGENCO

2.K ARUNA(SC FOR APGENCO)

The Court made the following:

Order:-

The petitioners have filed the present writ petition seeking to consider their service from 31.08.1989 to 05.12.1996 as contract labour to pay the pension by considering the same as service rendered to the respondent organization.

2. The learned counsel appearing for the petitioners submits that the petitioners were absorbed as Sub-Engineers on 06.12.1996 and, prior to their absorption, they were engaged as NMR workers.

3. It is submitted that this Court, in W.P.No.12806 of 1988 and batch, had considered the cases of similarly placed employees whose service in the respondent organization as contract labour was not considered for fixation of pension, and this Court directed the respondents to count the period of service rendered by the petitioners therein from the date of their working in the respondent establishment for the purpose of granting pensionary benefits, and the same is to be treated as qualifying service for the purpose of pensionary benefits. It is also submitted that the petitioners are similarly placed and their service rendered on temporary basis during the period from 31.08.1989 to 05.12.1996 ought to be considered as service for fixing pensionary benefits to the petitioners.

4. It is submitted that Rule 17 of the A.P. Pension Rules and Rule 50(12)(a) of the A.P. Pension Rules amply clarify the entitlement of the

petitioners for counting of the said period for the purpose of fixing pensionary benefits, by duly counting the service of the petitioners on contract basis or temporary basis as continuous service for extension of pensionary benefits.

5. Reliance is placed on the judgment of the Hon'ble Supreme Court passed in the matter of ***S.D. Jayaprakash and others vs. Union of India and others***¹.

6. The Hon'ble Supreme Court has dealt with a similar issue, wherein the applicants therein were working on temporary basis and contractual basis between 1996 and 1999, and in pursuance of the directions of the Central Administrative Tribunal, the services of the applicants therein were regularized with effect from 05.01.2015; however, their services rendered on contract basis were not considered for determining the pension payable. Rule 17 referred to by the Hon'ble Supreme Court is akin to Rule 17 of the A.P. Pension Rules, and Rule 50(12)(a) also clarifies the legal position.

7. The learned Standing Counsel appearing for the respondents submits that a detailed counter has been filed and that the petitioners would not be entitled for grant of any pension or pensionary benefits, as they were in service on NMR basis and the pensionary benefits would not be extended to NMR workers who retired prior to 01.02.2006. It is also stated that the Government has issued G.O.Ms.No.100, dated 06.04.2010, whereby the qualifying service was extended from three (03) years to five (05) years. That

¹ 2025 SCC OnLine SC 973

apart, it is submitted that the petitioners have attained the age of superannuation and the grievance of the petitioners cannot be considered after their superannuation from the respondents.

8. It is also submitted that the power and requirements under Rule 52 would be applicable only to employees who are covered under the A.P. Pension Rules, and the petitioners, having worked under a contractor in the erstwhile APSEB, cannot claim to be employees on regular basis. That apart, the service rendered by the petitioners for APSEB cannot be counted as service rendered to APGENCO.

9. Heard. Perused the record.

10. The short point for consideration is whether the petitioners would be entitled for counting of their service from 31.08.1989 to 05.12.1996 as continuous service for pensionary benefits.

11. The learned Single Judge of this Court, in W.P.Nos.12386 of 1990 and 13806 of 1980 has allowed the claim of the petitioners therein and directed the respondents to count the service of the petitioners for grant of pensionary benefits. The respondents cannot claim immunity from the service rendered by the petitioners with APSEB, and APGENCO cannot deny counting of the service rendered by the petitioners on contractual basis with APSEB. When the A.P. Pension Rules, 1980 are applicable to the employees of APSEB and APGENCO, nothing forbids the respondents from counting the service

rendered during the period from 31.08.1989 to 05.12.1996, following the law laid down by the Hon'ble Supreme Court in the matter of ***S.D. Jayaprakash and others vs. Union of India and others.***

12. This Court is inclined to direct the respondents to consider the service of the petitioners from 31.08.1989 to 05.12.1996 as continuous service for re-fixing the pensionary benefits. It is made clear that the respondents shall re-fix the pensionary benefits payable to the petitioners within a period of eight (08) weeks from the date of receipt of a copy of this order. It is also made clear that the petitioners would not be entitled to any past benefits, and the petitioners shall be extended the benefit of counting the continuous service from 31.08.1989 to 05.12.1996 for re-fixation of pensionary benefits from the date of receipt of this order.

13. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

03.02.2026
PNS

JUSTICE HARINATH.N