



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL Nos. 2049-2158 of 2019
[Arising out of S.L.P. (Civil) No.15001-15110 of 2013**

1

K. Amarnath Reddy & Ors.

.... Appellants

Versus

**Chairman & Managing Director, A.P.S.P.D.C.L. & Ors.
Etc. Etc.**

....Respondents

W I T H

**Civil Appeal Nos. 2159-2268 of 2019
[Arising out of SLP(C) Nos. 15114-15223 of 2013]**

**Civil Appeal Nos.2269-2272 of 2019
[Arising out of SLP(C) Nos. 25586-25589 of 2013]**

**Contempt Petition (C) Nos.570-679 of 2018
In SLP(C) No. 15001-15110 of 2013**

**Contempt Petition (C) Nos.1773-1776 of 2017
In SLP (C) No.25586-25589 of 2013**

Diary No.18811 of 2018

Diary No.26419 of 2018

J U D G M E N T

L. NAGESWARA RAO, J.

Leave granted.

1. The validity of appointment to the posts of Junior Linemen in the Andhra Pradesh Transmission Corporation

(A.P. TRANSCO) and the four Andhra Pradesh Distribution Companies (DISCOMS) in the erstwhile combined State of Andhra Pradesh is in issue in these appeals.

2. On 07.06.2006, the Special Chief Secretary, Energy Department, Government of Andhra Pradesh permitted the Chairman & Managing Director, A.P. TRANSCO and the Chairpersons, Andhra Pradesh Power Coordination Committee (APPCC) to fill up 7114 posts of Junior Linemen on contract basis in the four DISCOMS duly following the rule of reservation. The appointment on contract basis was to be for a period of one year which would cease automatically after the said period. Pursuant to the said permission granted by the Government, the A.P. TRANSCO and the four DISCOMS advertised 7114 vacancies and called for applications from the eligible candidates for the post of Junior Lineman vide separate notifications. For the sake of convenience, the conditions prescribed in the notifications, issued by Andhra Pradesh Central Power Distribution Company Limited (APCPDCL) are referred to in the judgment. The permission granted by the Government contained certain conditions which were included in the advertisement dated 08.06.2006. ITI qualification,

residence in the notified area, and pole climbing were made compulsory as per Clauses 7 (i), (ii), and (iii) of the advertisement. According to Clause 7 (iv), all candidates who fulfilled the compulsory conditions in sub clauses (i), (ii), and (iii) of Clause 7 would be considered for selection on the basis of the marks obtained by them in ITI examination. A writ petition was filed in the High Court by the existing contract labourers questioning Clauses 7 (ii) and (iv) of the advertisement/notification dated 08.06.2006 by which residence in the notified area was made compulsory and selection was based on the marks obtained in ITI examination. The writ petition was disposed of with a direction that Operation/ Circle/District shall be treated as a unit of appointment without reference to the restriction imposed under Clause 7 (ii). There was a further direction that weightage should be given to experienced candidates.

3. A revised notification was issued on 20.10.2006 in which the criteria for selection and appointment as Junior Lineman was altered. The contract labourers were given preference for selection over the fresh candidates. Amongst the contract labourers, selection was to be on the

basis of earlier date of birth. The preference given to age in the revised notification was the subject matter of challenge in the High Court. The High Court allowed the writ petition by holding that the absolute preference given to the earlier date of birth irrespective of the merit of the candidates in the qualifying examination and the length of service as illegal and arbitrary. However, the High Court refused to interfere with the selections already made as they were contractual in nature and were made only for a period of one year. Being aware that setting aside the appointments would result in serious dislocation of work, the selected candidates were permitted to continue till the expiry of the original contract. The authorities were directed not to extend the contract under any circumstance. A fresh selection process was directed to be initiated and further direction was given by the High Court to consider the feasibility of evolving a structured formula to give preference to the contract labourers by awarding one mark for each year of completed service. Rule of reservation was to be strictly followed and the appointments were to be made only for one year. Aggrieved by the said judgment, the A.P. TRANSCO and the

DISCOMS filed Writ Appeal No.1434 of 2008 and Batch. The directions issued by the learned Single Judge regarding the method of preference to be given to the contract labourers and the appointments to be restricted to only one year were set aside by the Division Bench of the High Court. However, the Division Bench approved the directions pertaining to reservation.

4. During the course of arguments in the Writ Appeals, the learned Advocate General on the basis of written instructions from the DISCOMS submitted that the writ petitioners who were adversely affected by Clause 6 (iv) (c) of the revised notification which relates to preference being given to the earlier date of birth can be accommodated. The submission of the learned Advocate General was that the services of all the 7114 Junior Linemen have to be terminated if Clause 6 (iv) (c) of the revised notification dated 20.10.2006 is struck down which would lead to serious disruption of essential services. In order to obviate such dislocation, a decision was taken to appoint and absorb all the writ petitioners who could not be selected in view of the Clause 6 (iv) (c) of the revised notification. On the basis of the statement of the learned

Advocate General, the Division Bench directed appointment of all the writ petitioners who had submitted their applications pursuant to the notifications dated 08.06.2006/ 20.10.2006 and who could not be selected in view of the condition mentioned in Clause 6 (iv) (c) of the revised notification dated 20.10.2006. It is relevant to note that the said direction was made applicable even to those candidates who did not approach the High Court. The Division Bench observed that all those selected and appointed pursuant to the judgment shall be entitled to all the benefits at par with the persons who have already been appointed as Junior Linemen. It was further held that they were entitled to the regularization of their services as well.

5. The services of 7114 Junior Linemen who were appointed on contract basis pursuant to the notifications dated 08.06.2006/ 20.10.2006 were regularized on 28.12.2010 w.e.f. 03.10.2008. Aggrieved by the non implementation of the directions issued by the Division Bench in Writ Appeal No.1523 of 2008 and Batch dated 17.11.2009, persons who were not appointed filed Contempt Petitions. It was brought to the notice of the

Division Bench hearing the Contempt Petitions that a learned Single Judge stayed all further appointments to the posts of Junior Linemen on 22.04.2010 in Writ Petition No.9129 of 2010. The Division Bench vacated the said interim order and directed the completion of the entire process of appointment and regularization as per the judgment in Writ Appeals 1434 of 2008 and Batch within a period of two months.

6. Permission was accorded by the Government to fill up another 7319 vacant posts of Junior Linemen in the A.P. TRANSCO and the four DISCOMS on 15.06.2011. In the meanwhile, the process of implementation of the judgment in Writ Appeals 1434 of 2008 and Batch was continuing and a large number of contract labourers who could not be appointed in view of Clause 6 (iv) (c) of the revised notification dated 20.10.2006 were appointed even after the fresh notification was issued. There is no dispute that these appointments were beyond the 7114 posts that were advertised in 2006.

7. Several writ petitions were filed in the High Court raising various points including the validity of appointments beyond those that were advertised in the

year 2006. Preference given to experienced candidates in the selections made pursuant to the advertisement of 2006 was also subject matter of some writ petitions. The High Court disposed of the writ petitions by a common judgment dated 14.03.2012 by giving the following declarations and directions:

“DECLARATIONS:

i) The Notifications dated 6/8.06.2006 as revised on 20/21.10.2006 are legal, except the condition no. 6 (iv) (c) of the revised notification dated 20/21.10.2006, which was already struck down by this Court.

ii) Among the qualified candidates, the contract labour appointed earlier and working as on the date of issuance of first notification i.e., 6/8.6.2006 with work experience as certified by the concerned Divisional Engineer, shall alone be treated as presently working contract labour and are entitled for preference in selection based on the length of service.

iii) The persons appointed as on the date of first notification and revised notification, shall be treated as freshers.

iv) If the contract labour and freshers apply for the post of Contract Junior Lineman, the contract labour shall be given preference for selection as per condition 6 (iv) (b) of the revised notification.

v) The action of AP Transco and four distribution companies in selecting the fresh candidates based on their marks in ITI examination, ignoring the claim of the eligible experienced contract labour is illegal.

vi) After considering the cases of all the existing contract labour, still if there remains any vacant posts, then the cases of the fresh candidates shall be considered subject to fulfilling the requisite conditions and the marks obtained in the qualifying examination shall be the criteria for their selection as per condition 6 (iv) (d) of the revised notification.

vii) Applicants who applied pursuant to the notifications are entitled to be considered even if their names are not sponsored by the employment exchange concerned.

viii) If more than one contract labour apply for the post with same length of service and experience, in such cases, obviously, the candidate with earlier date of birth shall be given preference for selection.

ix) The technical qualifications, the educational qualifications, age and experience etc shall be fulfilled as on the date of the first notification i.e., 6/8.6.2006 alone.

x) The candidates who have applied pursuant to the notifications dated 6/8.6.2006 as revised on 20/21.10.2006 and fulfil all the requisite qualifications such as technical, educational, age, nativity, experience etc as on the date of first notification, shall alone be considered for the 7114 posts notified by AP Transco and four distribution companies.

xi) The candidates who have not applied in pursuance of the notifications dated 6/8.6.2006 as revised on 20/21.10.2006 and permitted to pole climbing test pursuant to the orders of this Court are not entitled to be considered.

xii) The action of AP Transco and four distribution companies in filling up the subsequent vacancies that arose pursuant to the permission granted by the Government vide its letter No.565/Ser/2011 dated 15.6.2011, with any of the candidates either affected by reason of struck down of condition No. 6 (iv) (c) of the revised notification or on any account is illegal. If they are entitled to be selected by giving preference to their experience/length of service subject to fulfillment of requisite conditions/qualifications for such consideration shall be restricted to notified 7114 posts only as they are entitled for selection under conditions 6 (iv) (a) and (b) of the revised notification.

xiii) Though the selection and appointment of JLM is for one-year contract period, the employer is entitled to retain, absorb and regularize their appointment and also consider for their promotion.

xiv) The subsequent vacancies of 7319 JLM posts that arose pursuant to the permission granted by the Government vide its letter No. 565/Ser/2011 dated

15.6.2011 shall be filled by issuing fresh notifications alone as per the rules.

xv) No contract labour or fresh candidate is entitled to claim any sort of exemption with regard to age, educational qualifications, technical qualifications, pass in pole climbing test etc for consideration of their cases for appointment to the post of JLM.

xvi) The rule of reservation shall be followed both in respect of existing contract labour as well as fresh candidates as per the existing procedure and practice. Though the unit of appointment is circle/district, maintenance of the roster as per the existing practice either division wise or circle wise, as the case may be, is legal and valid for implementation of rule of reservation, as the posts are not civil posts.

DIRECTIONS:

a). The selections made contrary to the above declarations are illegal and they are set aside.

b). The selection of the candidates as against the subsequent vacancies of 7319 posts of JLM that arose pursuant to the permission of the government vide letter No.565/Ser/2011 dated 15.6.2011 is illegal and the same are set aside.

c). The respondents are directed to review the entire selection process strictly in terms of this judgment and the afore said declarations and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

d). The respondents are directed to fill up 7319 posts of JLM that arose pursuant to the permission of the government vide letter No. 565/Ser/2011 dated 15.6.2011 by issuing the notifications / calling for applications from the eligible candidates, of course, by giving preference to the contract labour as per rules."

Aggrieved by the said judgment, the above appeals are filed.

8. We have heard the learned counsel for the parties.

The selection and appointment to 7114 posts of Junior

Linemen were approved by a judgment dated 10.11.2009 of the Division Bench in Writ Appeal 1434 of 2008 and Batch. Their services have also been regularized. The directions issued by the High Court in the impugned judgment pertaining to the selection of 7114 Junior Linemen pursuant to the advertisement dated 08.06.2006/20.10.2006 is not justified. No such directions could be issued especially after the judgment of another Division Bench approving appointments of 7114 Junior Linemen became final. The High Court is right in holding that appointments could not have been made to posts beyond the 7114 posts that were advertised. However, the High Court ought to have considered that the submission made by the learned Advocate General regarding the imminent disruption of essential services was taken into account by an earlier Division Bench which permitted the filling up of posts beyond the 7114 posts which were advertised. On the basis of the submission of the learned Advocate General and the judgment of the High Court in Writ Appeal 1434 of 2008 and Batch, persons who participated in the selections but could not be appointed in view of condition mentioned in Clause 6 (iv)(c) of the amended notification

dated 20.10.2006 were also appointed as contract labourers and their services were regularised.

9. A perusal of the declarations and directions in the impugned judgment would show that the High Court conducted a scrutiny of the selections made pursuant to the notifications dated 08.06.2006/20.10.2006 to 7114 posts of Junior Linemen. The submission made by the learned Senior Counsel appearing for the parties is that the appointments made to posts beyond 7114 posts that were advertised on 08.06.2006/20.10.2006 were by way of implementation of the directions issued by a Division Bench of the High Court on 10.11.2009 in Writ Appeal 1434 of 2008 and Batch. Therefore, according to them, the finding of the High Court that appointments made to posts beyond those that were advertised is not correct. The directions issued by the High Court are:-

“Therefore, taking the aforesaid undertakings of the Appellant-Distribution Companies on record, we direct the Appellant Companies to appoint all the Respondents/Writ Petitioners, who submitted their applications pursuant to the notifications dated 8.6.2006 and the other dates, issued by the various appellant companies, and who have passed the pole climbing test and fulfilled the other eligibility criterion for appointment as Junior Linemen, without reference to and without insisting upon the fulfillment of Condition No.6 (iv) (c) of the revised notification dated 20.10.2006 within two months from the date of receipt of a copy of this order.

We also make it clear that this direction would be applicable to all those candidates, who have not approached this Court but who had applied in pursuance of the aforementioned notifications, subject to passing of the pole climbing test and fulfillment of eligibility criteria.

We however make it clear that the persons who have not applied in pursuance of the notifications dated 8.6.2006 and the other dates and who have not subjected themselves to the selection process have no right whatsoever to claim that they are entitled for such appointment.

We also make it clear that all the selected and appointed respondents-Writ Petitioners and others similarly situated would be entitled for all benefits on par with the persons who have been appointed as Junior Linemen as per Condition No.6 (iv)(c) of the revised notification, including regularization of their service as per rules and policy.”

10. The said judgment of the High Court in Writ Appeal No.1434 of 2008 and Batch was referred to in the impugned judgment. However, the High Court proceeded to adjudicate the correctness of the selections made pursuant to the notification dated 08.06.2006/20.10.2006. The judgment of the High Court in Writ Appeal No.1434 of 2008 and Batch became final and appointments were made pursuant to the directions issued. The High Court committed a serious error in re-examining the selections to 7114 posts of Junior Linemen and other appointments made beyond the posts that were advertised, made pursuant to the advertisement dated 08.06.2006/20.10.2006. Therefore, the declarations and

directions which have a bearing on the selections and appointments that are already made are not sustainable.

11. Ms. Prerna Singh, learned counsel appearing for the persons who are similarly situated to those who were directed to be appointed by the Division Bench in Writ Appeal No.1434 of 2008 and Batch submitted that some of the eligible candidates have not been appointed till date. Mr. R. Venkataramani, learned Senior Counsel appearing for the DISCOMS fairly submitted that if persons who applied for selection as Junior Lineman in 2006 were not appointed due to condition 6(iv) (c) of the revised notification dated 20.10.2006, they shall be considered for appointment.

12. Keeping in mind that appointments to the posts of Junior Linemen have been made long back and the services of those appointed were regularised, any interference with such appointments will cause irreparable loss to them apart from adversely affecting the smooth functioning of the A.P. TRANSCO and the DISCOMS.

13. Needless to say that, any future recruitment to the post of Junior Lineman shall be done strictly in accordance with the law.

14. For the aforementioned reasons, the judgment of the High Court is set aside and the appeals are allowed.

Contempt Petitions are closed. All the pending applications are disposed of in terms of the above judgment.

.....J.
[L. NAGESWARA RAO]

.....J.
[SANJAY KISHAN KAUL]

**New Delhi,
February 25, 2019**