WP 11521/2014

Counter filed by Respondent No.3.

It is submitted that present writ petition is filed to declare the action of the respondents in not regularizing the services of the petitioner w. e. f. June 1988, i.e. the day on which the services of juniors to that of petitioner were regularized as illegal, arbitrary and consequently direct the respondents to regularize the services of the petitioner from July,1988 i.e. on par with the juniors and consequently direct the respondents to pay the difference of the benefits accrued to thereof.

At the outset the writ petition is not maintainable as the petitioner herein has approached this Hon’ble High Court after a long time. The writ petition is barred by delay and latches. It is a fact that the petitioner was appointed as LDC on 3-4-1992 pursuant to the orders passed by this Hon’ble High Court in WP No.11080/1989.The petitioner joined the service and rendered his services for quite a long period without any claims .The petitioner was promoted as UDC in the year 2008. He has accepted the promotion without any claim regarding regularization. It is further submitted that the petitioner has retired from service on attaining the age of superannuation in the month of June, 2011.His pensionary benefits were also settled. while he was in service, he has accepted for the same and after 3years of his retirement he filed the present writ petition and the same is hit by delay and latches. The writ petition has to be dismissed on this ground alone.

It is submitted that the petitioner was appointed as LDC on 3.4.1992 in terms of the Memo. No.OSD (P) /DM.I /A3/1138/85-1 dt 26-8-1985 of the erstwhile APSEB. It is further submitted that the above Memo was issued by the erstwhile APSEB after considering the representations of the unions requesting to consider the cases of the eligible ex-casual labourers against the vacant posts in the field offices. It was stated in the Memo that casual labourer were engaged in terms of the Board’s memo against the regular vacant posts and that several posts are being sanctioned by the Board from time to time for Operation and Maintenance works in the Operation circles, cases of Ex-Casual labourer may be considered.

It is submitted that after careful consideration erstwhile APSEB issued orders framing certain guidelines. The following are some among them.

1. The vacant LDCs/Revenue cashiers and Typists/Stenos-Typist in establishments and in operation circles shall be filled in by considering the suitable and eligible candidates from among the Ex-casual labourer after exhausting the existing casual labourer if any on ONE TIME BASIS.
2. Number of worked days and the qualifications were to be taken in to consideration for posts in operation & Maintenance and Construction establishment posts. The Ex-casual labourer who have worked for the prescribed number of working days and who do not possess qualification need not be considered.
3. In case of graduates and those possessing equivalent or higher qualifications among Ex-casual labourer, they may be appointed against the vacant posts of LDC/Revenue cashier/Typist /Steno Typist posts in the Operation circles as and when those posts arise regardless of total number of days they worked as casual labourer.
4. The vacant posts in the above shall be filled in as per norms only.

3.Division may be taken as a unit in case of Helpers &watchman and DE is the appointing authority and in case of LDC/ Revenue cashier/Typist /Steno Typist circle may be taken as a unit.SE is the appointing authority.

Further a list of eligible candidates were to be prepared and scrutinize the qualifications &issue appointment orders after remaining posts are to be filled by the drive recruitment after exhausting the Ex-casual labourer.

It is submitted that the petitioner is an Ex-casual labour and he possess degree qualification. As per the above Memo his case was considered and he was appointed as LDC in the year 1992.There is no provision in the memo to count the number of manned days. The criteria of appointment is one should be an Ex-casual labour and he has to be appointed basing on his qualifications. There is no seniority list maintained in Ex-casual labourer category. Hence there can not be any senior or junior in that category.

It is further submitted that as per the above memo the qualified ex-casual labourer are to be appointed against a regular vacant post in the circle which is the unit of appointment. In the present case the petitioner was appointed against a regular vacancy on 3-4-1992.There cannot be regularization prior to his initial appointment i.e. 3-4-1992. The contention of the petitioner is that his services have to be regularized from the date on which his junior’s services were regularized is untenable. It is submitted that Mr. Srinivasa Chary was initially appointed on 7-7-1989.

It is submitted that the allegation in the writ petition that he has filed representation at the time of his promotion as UDC in the year 2008 is false and baseless. There is no representation received by the respondents. With regard to the allegation that due to the inaction of the respondents the petitioner has lost his promotion as well as yearly increments for 4 years apart from that at the time of his retirement because of denial of this increments, he received also less terminal benefits is not tenable. The petitioner has been given promotion, increments and terminal benefits as per his eligibility and seniority. There is no in action on the part of theof the respondents as alleged hence denied.

In reply to the para 5 of the affidavit, it is humbly submitted that the averment that APTRANSCO vide T.O.O. Ms.No. 133 dt 28-6-2011 & T.O.O. Ms.No.164 dt 25-8-2012 sanctioned 2 increments with fixation benefits to the employees who were recruited on training as Accountents during the period 1986-1991 and subsequently appointed to the regular time scale with monetary benefits from 1/4/2010. In this regard it is submitted that the benefits were given to the persons who were appointed during 1986-1991.That benefit cannot be made available to the writ petitioner because his date of initial appointment itself is 3/4/1992. Hence the benefit is not given to the writ petitioner. The contention of the petitioner that he has made a representation to the respondents is false and baseless and hence denied. The respondents have not received any representation at any point of time. If at all the petitioner had any grievance against Mr.Srinivasa Chary,C.Sattaiah, Raghunath Reddy and K.Shankaraiah he ought to have challenged their promotion orders at the relevant point of time itself. It is submitted that the writ petitioner kept quite for all these years and after 3 years of his retirement he filed this present writ petition with an intention to unsettle the settled things. The petitioner has not challenged any of his juniors promotion orders at any point of time. Even when the seniority list was published, he did not moved his little finger. He has not filed any objections to the seniority list or filed any writ petition. In view of the above facts there are no merits in the writ petition and the same may be dismissed.