

TELANGANA POWER GENERATION  
CORPORATION LTD. (TSGENCO)

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v.

ANDHRA PRADESH POWER GENERATION  
CORPORATION LTD.

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Miscellaneous Application No (s). 1270/2020  
In  
(Civil Appeal No (s). 11435/2018)

DECEMBER 07, 2020.

[ASHOK BHUSHAN AND M. R. SHAH, JJ.]

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*Service Law – Allocation of employees – Andhra Pradesh Reorganisation Act, 2014 – ss.3,4 and 82 – Dispute relating to allocation of the employees of the power sector undertakings in the States of Telangana and Andhra Pradesh arose in wake of the division of the erstwhile State of Andhra Pradesh into two States, namely, the State of Telangana and the residuary State of Andhra Pradesh – The power utilities of the two newly formed States could not arrive at any consensus with regard to modalities for allocation and distribution of personnel – The power utilities of Telangana unilaterally relieved 1157 employees working with power utilities of Telangana to join in respective power utilities of Andhra Pradesh – The power utilities of Telangana were motivated by principle of nativity, i.e., those employees whose service records mentioned them as resident of any part of the residuary State of Andhra Pradesh were relieved and those who belonged to territory of the newly formed State of Telangana were permitted to join at Telangana by their self-option, against which writ petition was filed before the High Court – The High Court by its judgment dated 02.02.2018 allowed the writ petitions, set aside the impugned action of power utilities of Telangana relieving 1157 employees and issued further directions – In appeal, the Supreme Court upheld the judgment of the High Court and with the agreement of the parties entrusted the task to one-Man Committee for distributing the personnel between the States – The process which was initiated by submitting Final Report dated 26.12.2019 was supplemented by Supplementary Report dated 11.03.2020 and Concluding Report dated 20.06.2020 – In the Concluding Report, an allocation list submitted by Andhra*

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- A *Pradesh utilities was approved – The Committee noticed that 655 employees were allocated from Telangana State to Andhra Pradesh and equal numbers from Andhra Pradesh to Telangana including 71 names from Andhra Pradesh to Telangana, which was held to be of special cases like spouse and medical cases – Certain further directions were given by the One-Man Committee along with the concluding report – Various Miscellaneous applications were filed – There were various objections against the One-Man Committee report – Held: The One-Man Committee being aware of all objections and having taken a conscious decision to finalise the allocation between two States, there is no error in the process which may warrant any clarification or direction – Applicants have taken exception to reciprocity of 655 number – There is no error in reciprocity – The One-Man Committee took a decision that when 655 employees are coming from Telangana State to Andhra Pradesh, same number should go from Andhra Pradesh to Telangana State –*
- B *In the Concluding Report, final list was annexed, which is utility-wise and personnel-wise, which is clear and unambiguous – Thus, power utilities of both the States and all concerned to carry out and implement the directions of the One-Man Committee Report.*
- C *Service Law – Allocation of employees – Andhra Pradesh Reorganisation Act, 2014 – ss.3,4 and 82 – Challenge to allocation done by One-Man Committee – Held: In the instant case, the One-Man Committee was entrusted only with distribution of personnel between the two States, which distribution has been finalised by the One-Man Committee – Insofar as the allocation made by the One-Man Committee, no objection or challenge by any employee or officer is entertainable, it was further clarified that the One-Man Committee having completed the process of allocation, the said allocation cannot be challenged by any employee or officer or any utility before any forum.*

#### **Disposing of the Miscellaneous Applications, the Court**

- G **HELD:** 1. One objection of the applicants, which needs to be noticed is the objection that even the Concluding Report dated 20.06.2020 is not final report and Sub-Committee Member of Andhra Pradesh has been authorised to modify the list. Applicants have referred to direction Nos. I, II and III of the Concluding Report. Now, taking note of the direction No.I of the One-Man
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Committee that those who have attained or will be attaining 58 Years of age in the year 2020 will be kept out of the allocation process and their names in the Allocation Lists will be removed. According to the Supplementary report, both the parties had agreed before the One-Man Committee that all retired employees between years 2014 to 2020 in each power utility in each State need not be displaced. Thus, the above was agreement between both the parties before the One-Man Committee and direction No.I only an extension of the said agreement, i.e., whoever shall be attaining 58 years of age in 2020 shall be kept out of allocation process. As per paragraph 21 of the Supplementary Report, those, who retire till then were already kept out of the allocation and the extension till the end of 2020 cannot be said to be unreasonable. The allocation process being not yet finalised and awaiting finalisation for last several years, those who retire either in Telangana State or Andhra Pradesh has rightly been decided not to be displaced only for the purpose of shouldering pensionary liability. The direction No.I is equitable. [Paras 48, 49 and 50][1025-A-B, F-G; 1026-A-C]

2. The applicants submitted that after the Concluding Report dated 20.06.2020 by letter dated 26.06.2020, Andhra Pradesh power utilities have struck 119 names from the incoming 655 list from the Telangana State power utilities to Andhra Pradesh power utilities. This Court is of the view that the said dropping is only consequential to the decision of the One-Man Committee as reflected in paragraph 21 of Supplementary Report and direction No.I of Concluding Report. The Andhra Pradesh power utilities have also deleted 50 names from the list of 584 employees outgoing from Andhra Pradesh power utilities to Telangana State power utilities, which was again in compliance of the One-Man Committee's decision. Any consequential action taken in pursuance of the Concluding Report cannot be said to be not contemplated by the final Concluding Report or cannot be said to be an open ended report. The consequence of Concluding Report has to be taken to its logical ends. Further, 10 employees have been added by direction Nos. II and the reasons have been given in the letter dated 26.06.2020 for relieving them, which is again consequence of direction Nos.I and II. This Court, thus, is of the view that the One-Man Committee has considered all

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- A materials and objections placed before it by both sides including the representation of the employees and employees organisations submitted from time to time. The process which was initiated by submitting Final Report dated 26.12.2019 was supplemented by Supplementary Report dated 11.03.2020 and Concluding Report dated 20.06.2020. The One-Man Committee being aware of all objections and having taken a conscious decision to finalise the allocation between two States, this Court does not find any such error in the process which may warrant any clarification or direction by this Court. This Court may further notice that the exercise undertaken by the One-Man Committee is to allocate
- B 655 from Telangana State to Andhra Pradesh and same number from Andhra Pradesh to Telangana State. Apart from the above two allocations, other personnel, who were working in Telangana State and Andhra Pradesh were not disturbed by allocation. [Para 51][1026-D-H; 1027-A-B]
- C 3. The applicants have also taken exception to reciprocity of 655 number. This Court does not find that there is any error in reciprocity. The One-Man Committee took a decision that when 655 employees are coming from Telangana State to Andhra Pradesh, same number should go from Andhra Pradesh to Telangana State. In the Concluding Report, final list has been annexed, which is utility-wise and personnel-wise, which is clear and unambiguous. This Court, thus, does not find any merit in the Miscellaneous Applications filed by Telangana State power utilities being M.A. Nos. 1286, 1290, 1292 and 1291, which are dismissed. [Para 52][1027-B-D]
- F 4. With regard to other M.A.s, this Court makes it clear that the One-Man Committee was entrusted only with distribution of personnel between the two States, which distribution has been finalised by the One-Man Committee. Insofar as the allocation made by the One-Man Committee, no objection or challenge by any employee or officer is entertainable, this Court clarifies that the One-Man Committee having completed the process of allocation, the said allocation cannot be challenged by any employee or officer or any utility before any forum. Insofar as other claims regarding salary or allowances as raised in different M.A.s, they need no consideration in these proceedings and
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**employees of power utilities are free to adjudicate their claims before appropriate forum in accordance with law. All other M.A.s are disposed of accordingly. [Para 57][1029-B-C]** A

*Telangana Judges Association v. Union of India (2018)*  
**SCC Online SC 1729 – referred to.**

CIVIL APPELLATE JURISDICTION: Miscellaneous Application B  
No. 1270 of 2020 in Civil Appeal No. 11435 of 2018.

From the Judgment and Order dated 28.11.2018 of the Supreme Court of India in Civil Appeal No. 11435 of 2018.

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Miscellaneous Application No (s).1286/2020 in Civil Appeal No (s). 11435/2018, Miscellaneous Application....Diary No. 13844/2020 in Civil Appeal No (s).11435/2018, Miscellaneous Application No (s). 1287/2020 in Civil Appeal No (s).11435/2018, Miscellaneous Application No (s). 1290/2020 in Civil Appeal No (s).11436/2018, Miscellaneous Application No (s). 1292/2020 in Civil Appeal No (s).11438/2018, Miscellaneous Application No (s). 1331/2020 in Civil Appeal No (s).11435/2018, Miscellaneous Application No (s). 1291/2020 in Civil Appeal No (s). 11437/2018, Miscellaneous Application No (s). 1289/2020 in Civil Appeal No (s). 11435/2018, Miscellaneous Application No (s). 1293/2020 in Civil Appeal No(s).11440/2018, Miscellaneous Application...Diary No.16612/2020 in Civil Appeal No (s). 11435/2018, Miscellaneous Application No (s). 1631/2020 in Civil Appeal No (s). 11435/2018, Miscellaneous Application Diary No.19295/2020 in Civil Appeal No (s). 11453/2018, Miscellaneous Application....Diary No. 19982/2020 in Civil Appeal No (s). 11453/2018. F

Vikramjit Banerjee, ASG, Mukul Rohatgi, V. Giri, G. Vidyasagar, Vivek K Tankha, Vinay Navare, Ranjit Kumar, Rakesh Dwivedi, R. Balasubramanian, P.V. Surendranath, P.S. Narasimha, Rana Mukherjee, Neeraj Kishan Kaul, A.K. Sanghi, Sr. Advs., D. Abhinav Rao, Harsh Parashar, Ms. Tanvi Bhatnagar, Ms. Jhanvi Dubey, Sandeep Sudhakar Deshmukh, Sachin Sharma, Ms. Sujata Bagadhi, Venkateswara Rao Anumolu, Ravi Shankar Jindhiyala, Deepak Kumar Singh, Sravan Kumar, Gautam Singh, Krishna Kumar Singh, Subhash Chandran KR, Ms. Resmitha R. Chandran, Ms. Lekha Sudhakaran, Ms. Sindoora, R. Balaji, Hitendra Nath Rath, Srijan Sinha, Himanshu Choubey, Ashwarya Sinha, Puneet Jain, Nishant Sharma, Rakesh K. Sharma, H

- A Deepak Joshi, Akash Lamba, Wazir Singh Malik, B.V. Balram Das, Ms. Nachiketa Joshi, P.V. Yogeshwaran, Ms. Swarupama Chaturvedi, Mahfooz A. Nazki, Polanki Gowtham, Shaik Mohamad Haneef, Amitabh Sinha, Shrey Sharma, Gurmeet Singh Makker, Rajat Nair, Apoorv Kurup, V. Sridhar Reddy, Sunder Khatri, Abhijit Sengupta, P. Venkat Reddy, Prashant Tyagi, P. Srinivas Reddy for M/S. Venkat Palwai Law Associates, Advs. for the appearing parties.

The Judgment of the Court was delivered by

**ASHOK BHUSHAN, J.**

- C 1. These Miscellaneous Applications have been filed in Civil Appeal No.11435 of 2018 decided by this Court vide judgment dated 28.11.2018. Civil Appeal No. 11435 of 2018 was filed against the common judgment dated 02.02.2018 passed by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in Writ Petition No.17994 of 2015 and other connected writ petitions.
- D 2. The High Court vide its judgment dated 02.02.2018 decided the bunch of writ petitions raising the dispute pertaining to allocation of the employees of the power sector undertakings in the States of Telangana and Andhra Pradesh. The disputes arose in the wake of the division of the erstwhile State of Andhra Pradesh into two States, namely, the State E of Telangana and the residuary state of Andhra Pradesh by Andhra Pradesh Reorganisation Act, 2014. This Court vide its judgment dated 28.11.2018 while upholding the judgment of the High Court with the agreement of the learned counsel for the parties appointed a One-Man Committee consisting of Justice D.M. Dharmadhikari, a former Judge of this Court for distributing the personnel between two States. After F the judgment of this Court dated 28.11.2018, One-Man Committee proceeded to formulate the modalities for distributing the personnel, prepared the reports allocating the personnel at several stages. The miscellaneous applications were filed in this Court in the civil appeal in pursuance of the liberty granted by this Court in its judgment dated G 28.11.2018 permitting the parties to approach the Court by filing an interlocutory application, if any, clarification or further directions were required.
- H 3. The present set of miscellaneous applications have been filed by Telangana Power Utilities, certain employees and employees' associations after submission of the concluding report dated 20.06.2020 by the One-Man Committee.

4. Before we proceed to consider the present set of miscellaneous applications, it is necessary to notice the genesis of dispute. A

5. The Andhra Pradesh Reorganisation Act, 2014 (hereinafter referred to as “Act, 2014”) was enacted by Parliament to provide for the reorganisation of the existing State of Andhra Pradesh and for matters connected therewith. By Section 3, Telangana State was formed comprising of the territories mentioned therein and by virtue of Section 4, the State of Andhra Pradesh was to comprise the territories of the existing state of Andhra Pradesh. In the present case, we are concerned only with power utilities. Related provision for employees of public sector undertaking is contained in Section 82, which is to the following effect:- B

**“82. Provision for employees of Public Sector Undertakings, etc.—**On and from the appointed day, the employees of State Public Sector Undertakings, corporations and other autonomous bodies shall continue to function in such undertaking, corporation or autonomous bodies for a period of one year and during this period the corporate body concerned shall determine the modalities for distributing the personnel between the two successor States.” C

6. 02.06.2014 was notified as the appointed date under the Andhra Pradesh Reorganisation Act, 2014. In the United State of Andhra Pradesh, existing power utilities where Andhra Pradesh Generation Corporation, Andhra Pradesh Transmission Corporation and four Power Distribution Companies described as Eastern, Southern, Central and Northern DISCOMS. The State of erstwhile Andhra Pradesh issued Government Orders dated 29.05.2014, No.24 for Distribution Companies, Government Order No.25 for Generation Companies and Government Order No.26 for Transmission Corporation whereby assets and liabilities of the aforesaid corporations and companies were apportioned between the two new States alongwith the posts sanctioned for the employees working in those power sector corporations/companies. The power utilities of the two newly formed States could not arrive at any consensus with regard to modalities for allocation and distribution of personnel. D E F G

7. The power utilities of Telangana unilaterally relieved 1157 employees working with power utilities of Telangana to join in respective power utilities of Andhra Pradesh. Number of employees filed writ petitions in High Court challenging the decision of the power utilities of Telangana. 242 employees, who were working in power utilities of Andhra Pradesh got themselves relieved and joined in power utilities of H

- A    Telangana. The power utilities of Telangana were motivated by principle of nativity, i.e., those employees whose service records mentioned them as resident of any part of the residuary State of Andhra Pradesh were relieved and those who belonged to territory of the newly formed State of Telangana were permitted to join at Telangana by their self-option, against which writ petition was filed before the High Court. The High Court by its common judgment dated 02.02.2018 allowed the writ petitions, set aside the impugned action of power utilities of Telangana relieving 1157 employees and issued further directions. The High Court specifically disapproved the principle of nativity, which was the factor for allocation of the employees by the Telangana State power utilities.
- B    Court by its common judgment dated 02.02.2018 allowed the writ petitions, set aside the impugned action of power utilities of Telangana relieving 1157 employees and issued further directions. The High Court specifically disapproved the principle of nativity, which was the factor for allocation of the employees by the Telangana State power utilities.
- C    8. Telangana Power Generation Corporation Limited filed Civil Appeal No. 11435/2018 questioning the judgment of High Court. This Court upheld the order of the High Court, however, noticing that two States have not been able to arrive at any consensus and to finally determine the modalities for distributing the personnel between two States,
- D    this Court with the agreement of the parties entrusted the task to One-Man Committee, i.e., Justice D.M. Dharmadhikari, a former Judge of this Court. While ending the order dated 28.11.2018, this Court further clearly stated:-

“We make it clear that the decision of the one man Committee head by Justice Dharmadhikari shall be final and binding on all the parties including Power Utility Companies of the two States as well as the employees and shall be executed by all the parties as an order of this Court.”

- E    9. This Court, however, while disposing the appeal had observed that in case, any clarification or further direction is required by any of the parties they are entitled to approach this Court by filing interlocutory application in the proceedings. One-Man Committee constituted a sub-Committee consisting of two members representing one each of the power utilities of both the States. Many employees, individuals also appeared and filed representations before the Committee. The Committee on 17.04.2019 had finalised XIV modalities to be adopted for allocation of the personnel between two States in accordance with Section 82 of the Andhra Pradesh Reorganisation Act, 2014. Telangana Power Generation Corporation Limited filed an application being M.A. No. 851 of 2019 questioning the modalities finalised by One-Man Committee.
- F    However, this Court did not entertain the application. A report cited as

“Final Report of One-Man Committee” dated 26.12.2019 was submitted by One-Man Committee. Alongwith report, a final allocation list in the two States corporations/companies was prepared and annexed. List of 655 personnel, who were to go from Telangana utilities to Andhra Pradesh utilities as submitted by sub-Committee Members on behalf of Telangana utilities was approved by the Hon’ble One-Man Committee and was part of the final list. The Andhra Pradesh utilities being felt aggrieved by the final list communicated in the final report filed I.A. Nos. 11779/2020, 11752/2020 and 11785/2020. It was stated by learned counsel for the applicant that they have no grievance with regard to modalities. Their submission was that the modalities have not been correctly implemented and the list annexed is not in accordance with the modalities. The applications were disposed of by this Court on 24.01.2020. This Court while disposing the applications made following observations:-

“This Court by the final judgment having entrusted the work of allocation to one man committee, as agreed by parties, the modalities finalized by one man committee is binding on all, to which, there is no dissension between the parties. There being no dispute regarding modalities, in event, there is some error or mistake in the working of the modalities that can be pointed out to the same committee by means of a representation and we hope and trust that the committee shall look into the said grievance and correct the error, if any. We also make it clear that if the representation is submitted by the applicant, copy of the same shall be given to the power utilities of both the Sates, who may also have liberty to submit a response to those representation, which may be considered by the one man committee. The representation be submitted within two weeks and response thereto be also submitted within two weeks thereafter.”

10. After the order dated 24.01.2020, the One-Man Committee after deliberations with all stakeholders submitted a Supplementary Report dated 11.03.2020. In the Supplementary Report, it was noticed that T.S. power utilities relieved employees numbering total 655 to join A.P. power utilities. It also noted that Telangana Power Utilities are agreeable to accommodate 71 employees from Andhra Pradesh to Telangana State companies as they are special cases like of spouses, medical and handicapped employees or their dependants.

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- A        11. In the Supplementary Report, the One-Man Committee entrusted the work to the member of the Sub-Committee representing Andhra Pradesh side, of identification of 584 employees for allocating them from A.P. power utilities to T.S. power utilities. One-Man Committee also issued directions for payment of salary for 655 employees, who were relieved from Telangana utilities to Andhra Pradesh. One-Man Committee directed that entire allocation process based on the allocation lists with the Final Report and Supplementary Report be completed by 30.03.2020. A clarification dated 13.03.2020 was also issued by the One-Man Committee. Aggrieved by Supplementary Report, the Telangana power utilities filed Miscellaneous Application No. 920 of 2020. With regard to 584 employees, who were directed to be identified by Sub-Committee Members of Andhra Pradesh, this Court disposed of the application observing that objections with regard to 584 employees were to be considered by One Man Committee. On an application submitted by One-Man Committee, this Court also passed an order for payment of salary to the allocated employees.
- B        12. One-Man Committee after the order of this Court dated 01.05.2020 issued a Concluding Report dated 20.06.2020. In the Concluding Report, an allocation list submitted by Andhra Pradesh utilities was approved. The Committee noticed that 655 employees have been allocated from Telangana State to Andhra Pradesh and equal numbers from Andhra Pradesh to Telangana including 71 names from Andhra Pradesh to Telangana, which was held to be of special cases like spouse and medical cases. Certain further directions were given by the One-Man Committee in the Concluding Report in paragraph 29 like approving the list of Sub-Committee Members of the Andhra Pradesh. In the Concluding Report, directions are to the following effect:-

**DIRECTIONS**

- I.        In addition to the Directions contained in Para 21 of the Supplementary Report of this Committee regarding retired employees on both sides, it is further directed, that in both the States, employees who have attained or will be attaining 58 Years of age in the year 2020 will be kept out of the allocation process and their names in the Allocation Lists will be removed.
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- H        II.      In the allocation process of the present dimension and undertaken after 5 years delay, it is not possible for the

- Committee to satisfy individual needs and comforts and service prospects of every employee. The allocation process has been finalized on laid down principles contained in the modalities and elbow room, wherever permissible, in the modalities has been given effect to. The committee however directs the Sub Committee member of AP to re-examine any left out spouse and medical cases and every attempt should be made to accommodate them in the state of their option. A
- III. All SC/ST employees cases be re-examined to accommodate them as per modality VIII in the State where they are notified as SCs or STs so as not to affect their future service growth. B
- IV. All the employees finally allocated to a Public Utility will be paid regular salary from January 2020 and arrears of salary due with other benefits attached to the posts. The payments of salary partly or fully made by the Companies in the Two States in the interim period pending finalization of allocation during coronavirus pandemic, will be shared/reimbursed by the companies in the Two States mutually by paying and claiming reimbursement, if necessary, for the payments made in the interim period. It is made clear that the entire burden of salary and arrears of salary for each employee would be on the Company to which the employee is finally allocated and the said Company will reimburse interim payments pending allocation made if any by the Company to which the employee has not been finally allocated. C
- V. All employees not included in the Allocation List of AP and TS and serving on “order to serve” basis in the Companies on the formation of the Two States in 2014 would be deemed to have been allocated to the Company where they are presently posted and working. D
- VI. Based on the allocation lists, both TS and AP utilities will issue orders of posting and joining, with granting sufficient time to the employees to report for duties, keeping into consideration the constraints on movements in the current coronavirus pandemic period and the consequent lockdown imposed. E
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- A VII. All Employers of the Power Utilities in the Two States will facilitate smooth posting and joining of employees in the Companies of the Two States and the Government and the Police Authorities of Two States will cooperate and also facilitate the movement of the employees allocated from one Company in the State to Company in another State.
- B VIII. The allocation finally made by this committee is binding on both the employers and the employees and any violation thereof and non implementation of said allocation be reported to Supreme Court for remedial/Punitive action.”
- C 13. After the Concluding Report dated 20.06.2020, a member of the Sub-Committee of Andhra Pradesh power utilities sent a letter dated 26.06.2020 as compliance report. By the said letter, 119 employees, who were dropped from the list of incoming employees from Telangana State power utilities to Andhra Pradesh power utilities and further 50 names were dropped of employees in outgoing list of employees from Andhra Pradesh power utilities to Telangana State power utilities and 10 further employees were relieved from Andhra Pradesh power utilities for the reasons mentioned therein.
- D 14. After the submission of the Concluding Report and follow-up action taken by the Andhra Pradesh power utilities, this group of E miscellaneous applications have been filed. The miscellaneous applications have been filed by Telangana State power utilities, by several employees as well as employees' associations in M.A. No. 1286/2020 filed by Telangana State Power Generation Corporation Ltd., a common counter affidavit has been filed by Andhra Pradesh power utilities. The M.A. F No. 1286 of 2020 as well as counter affidavit and rejoinder affidavit filed therein shall be referred to while deciding these batch of miscellaneous applications.
15. We may now briefly notice prayers made in different Miscellaneous Applications placed before us for consideration:-

G **M.A. No. 1270/2020**

M.A. No. 1270 of 2020 is a miscellaneous application which was registered by Court's Motion on Concluding Report dated 20.06.2020 sent by One-Man Committee to this Court.

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**M.A. DIARY NO. 13844/2020**

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This M.A. Diary has been filed by T.N. Sudhakara Murthy and 32 others seeking a direction to A.P. and T.S. utilities not to give effect to direction No.I of the Concluding Report dated 20.06.2020. They seek direction to A.P. power utilities to retain the applicants as per their options.

**M.A. NO. 1286/2020**

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M.A. No.1286 of 2020 has been filed by Telangana State Power Generation Corporation Ltd. The M.A. questions the Concluding Report dated 20.06.2020 submitted by One-Man Committee. In the M.A. following prayers have been made:-

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“a) Clarify that the Concluding Report dated 20-06-2020 submitted by the Hon’ble One-Man Committee is illegal and arbitrary, being contrary to the Orders passed by this Hon’ble court and the Final Report dated 26-12-2019 submitted by the Hon’ble One-Man Committee.

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b) Confirm the allocation of 1157 employees and 242 employees made by the Hon’ble One-Man Committee as per Final Report dt. 26-12-2018, (i.e., the Allocation of 744 (502 +242) to TS Power Utilities and 655 from TS to AP Power utilities), as Final in terms of the Order dt. 28.11.2018 passed in present Civil Appeal.

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c) Clarify that the allocation of 4460 and 71 employees (4531) to TS Power Utilities vide Final Report dt. 26.12.2019 and Supplementary Report dt. 11.03.2020, is final and no further allocation to TS Power Utilities is Permissible.

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d) Clarify that the Supplementary Report in so far as Para No.27, authorizing the Member, Sub-committee of AP to unilaterally identify and allocate 584 employees to TS Power Utilities is contrary to the orders dated 28-11-2018 in Civil Appeal No.11435/2018.

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e) Clarify the orders dated 28-11-2018 in Civil Appeal No. 11435 of 2018 passed by this Hon’ble Court; and

f) Pass such other or further order(s) as may be deemed fit and appropriate by this Hon’ble Court in the facts and circumstances of the present case.”

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A        **M.A. NO.1287/2020**

This M.A. has been filed by APSPDCL relieved employees (allotted to TSNPDCL). The applicants claimed to be permanent employees of Andhra Pradesh Southern Power Distribution Company now allocated to Telangana State Northern Power Distribution Company

- B Ltd. The applicants question their allotment to TSNPDCL. The applicants case is that they were not included in the employees allocated by Final Report dated 26.12.2019. Their names have suddenly come in Concluding Report for allocation. The applicants claimed that allocation of employees of APSPDCL working in Kurnool and Ananthapur Districts were to be finally allocated in terms of G.O. No.24 dated 29.05.2014 and they ought not to have been made part of the allocation to Telangana power utilities. The applicants prayed that their allocation to TSNPDCL be cancelled. They prayed that letter dated 26.06.2020 submitted by APSPDCL to One-Man Committee and approved by One-Man Committee by Concluding Report dated 20.06.2020 be got recalled and rescinded.

D        **M.A. NO. 1290/2020**

This M.A. has been filed by Transmission Corporation of Telangana Ltd. The prayers made in the application are similar to those made in M.A. No.1286 of 2020.

E        **M.A. NO. 1292/2020**

This M.A. has been filed by Telangana Southern Power Distribution Corporation Ltd. (TSSPDCL). The prayers made in this M.A. are similar to those made in M.A. No. 1286 of 2020.

**M.A. NO. 1331/2020**

- F This M.A. has been filed by the Telangana Power Generation Corporation Ltd. (TSGENCO). The prayers made in the application are similar to prayers made in M.A. No.1286 of 2020.

**M.A. NO. 1291/2020**

- G This M.A. has been filed by Telangana State Northern Power Distribution Corporation Ltd. (TSNPDCL). The prayers made in the application are similar as made in M.A. No.1286 of 2020.

**M.A. NO. 1289/2020**

- H This M.A. has been filed by Transmission Corporation of Telangana Ltd. (TSTRANSCO). The applicants' case is that they have

been working throughout in the residuary State of Andhra Pradesh. The applicants' names have been included in the list of 584 employees allocated by Andhra Pradesh power utilities to be allocated to Telangana power utilities. In pursuance of the Supplementary Report, the applicants claimed to be relieved w.e.f. 14.03.2020 but were not permitted to join by Telangana power utilities. The list of 584 employees submitted by Andhra Pradesh power utilities have been approved by One-Man Committee in the Concluding Report dated 20.06.2020. The applicants prayed that Supplementary report and Concluding Report be modified and revised directing the respondents to accommodate the applicants in Andhra Pradesh power utilities.

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**M.A. NO. 1293/2020**

This M.A. has been filed by Telangana Electricity Engineers Association & Ors. The applicants take exception to the Concluding Report of the One-Man Committee. The applicants prayed that allocation be restricted till Supplementary Report only by rejecting the Concluding Report. In the M.A. applicants prayed for confirmation of allocation of 1157 employees and 242 employees made by One-Man Committee Report dated 26.12.2019. The applicants also had pleaded that the Final Report, Supplementary Report and Concluding Report are contradictory to each other and are irreconcilable to the extent it goes beyond 1157 employees.

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**M.A. DIARY NO. 16612/2020**

This M.A. Diary has been filed by Ande Jagdish and three other Engineers seeking a direction to TSTRANSCO and APTRANSCO to pay pension/salary to the applicants. The applicants seek direction to implement the Concluding Report dated 20.06.2020 of the One-Man Committee. The applicant also prays for being impleaded in Civil Appeal No.11435/2018.

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**M.A. NO. 1631/2020**

This M.A. has been filed by L. Praveenkumar Reddy and seven other Engineers praying for a direction to Andhra Pradesh and Telangana State utilities not to give effect the direction No.I of the Concluding Report submitted by One-Man Committee. The applicants also prayed for a direction to A.P. power utilities to retain the applicants as per their options.

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**A        M.A. DIARY NO.19295/2020**

- This M.A. Diary No.19295 of 2020 has been filed by Kesana Babu Rao & 36 Ors., who claimed to be employees continued in services on the rolls of TSGENCO till 04.01.2020 where after they were relieved in pursuance of Final Report dated 26.12.2019 of the One-Man Committee. The applicants claimed that they have been denied payment of certain amounts like SGP Increments, Annual Increments, Generation Incentives, House Rent Allowance, Conveyance allowance, Promotions and Promotion increments, 24x7 power supply increments etc. The applicants claimed that their further re-allotment, who presently stand allotted to Andhra Pradesh Power Generation Corporation Limited as per the Final Report dated 26.12.2019, the Supplementary Report dated 11.03.2020 and the Concluding Report dated 20.06.2020 of the One-Man Committee.

**M.A. DIARY NO.19982/2020**

- D        This application has been filed by J.V.V. Suresh Kumar and Others seeking similar prayers as made in M.A. Diary No.19295 of 2020.
16. We have heard Shri Mukul Rohtagi, Shri Rakesh Dwivedi, Shri V. Giri, Shri Ranjit Kumar, learned senior counsel appearing for the Telangana State power utilities. Shri Neeraj Kishan Kaul, learned senior counsel has appeared on behalf of Andhra Pradesh power utilities. Shri Dushyant Dave, learned senior counsel has appeared for Telangana Electricity Engineers Association. We have also heard Shri R. Balasubramanian and Shri P.V. Surendranath, learned senior counsel. Shri Ravi Shankar Jindhiyala and other learned counsel appearing for the parties.
- F        17. We now proceed to notice the submissions advanced by learned senior counsel appearing for Telangana power utilities. It is submitted that under the judgment of this Court dated 28.11.2018 in Civil Appeal No.11435/2018, One-Man Committee had to confine the allocation to 1157 employees only. In the Final Report dated 26.12.2019, out of 1157 employees, 655 were allocated to Andhra Pradesh power utilities and 502 to Telangana State power utilities and after allocation, no further steps were required to be taken by One-Man Committee regarding further allocation. The One-Man Committee has exceeded the mandate of this Court vide order dated 24.01.2020 and substantially expanded the exercise of allocation of employees by giving completely go-bye to Final

Report dated 26.12.2019 and modalities finalised. The ratio of 3552:2550 as given in the Concluding Report with regard to employees of Andhra Pradesh power utilities and Telangana power utilities respectively is not prescribed by Government Order Nos. 24, 25 and 26 except in respect of headquarter posts. The number of total employees, i.e., 6102 as mentioned in the Concluding Report is erroneous. The figure of 6102 employees does not take into account the employees working in two distribution companies of Telangana, i.e., TSSPDCL and TSNPDCL. The Telangana State power utilities were already allocated 502 out of 1157+242+71 employees as per Supplementary Report and addition of further 584 employees as per the Concluding Report is excessive and uncalled for. The Concluding Report of the One-Man Committee has given a complete go-bye to the modalities, which were formulated and approved by this Court. One-Man Committee erred in accepting the stand of Andhra Pradesh power utilities that allocation of 655 employees proposed by Telangana State power utilities should be on a condition of reciprocity by the Telangana State utilities in accepting equal number of 655 employees from Andhra Pradesh power utilities. Reciprocity was not prescribed in the modalities given by One-Man Committee as approved by this Court. One-Man Committee erred in deviating from modalities by issuing the Concluding Report and allocation of employees as per principle of “financial neutrality” and “balancing of employees”. The direction given in the Supplementary Report was to identify 584 employees out of 2165 among those who fulfil the modality No.V alone. In the list of 584 employees proposed by Andhra Pradesh power utilities, there are only 170 employees, who are from the list of 2165 employees. The selection of 584 employees, thus, was beyond list of 2165, which was contrary to the Supplementary Report itself. Even the Concluding Report is not final and was an open-ended report. As per the Concluding Report, direction was given to Sub-Committee Member of the Andhra Pradesh to further delete the names as per direction Nos. I, II and III and in fact after the Concluding Report dated 20.06.2020 Sub-Committee Member from Andhra Pradesh has released another list on 26.06.2020 by deleting 119 employees from the list of 655 employees allocated to Andhra Pradesh and deleted 50 employees out of 484 list of employees and further added 10 more employees to be allocated to Telangana State on spouse ground. The report dated 20.06.2020, thus, was not even a final report and finality of the allocation was permitted to be unsettled by A.P. power utilities. The allocation exercise as per the Concluding Report

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- A dated 20.06.2020 is arbitrary being contrary to the orders of this Court and also contrary to the modalities framed by One-Man Committee and the earlier reports, i.e., Final Report dated 26.12.2019 and Supplementary Report dated 11.03.2020. It is further submitted by learned senior counsel that the Telangana State is both geographically as well as on population basis smaller State as compared to residuary State of Andhra Pradesh.
- B Against allocation of 655 employees to the Andhra Pradesh power utilities, from Andhra Pradesh power utilities to Telangana State power utilities  $502+242+71+584 = 1399$  employees have been allocated. Learned senior counsel for the applicants referring to figures as given in M.A. No. 1286/2020 in paragraph (e) and (f) submits that post allocation, total
- C number of employees in Telangana State power utilities are 5115 whereas in Andhra Pradesh power utilities was only 3552.

18. Shri Neeraj Kishan Kaul, learned senior counsel appearing for Andhra Pradesh power utilities refuting the submissions of the learned counsel for the applicants contends that the Concluding Report submitted

- D by One-Man Committee is not beyond the remit of this Court. One-Man Committee has not gone beyond the orders of this Court. One-Man Committee has prepared a Supplementary Report as well as Concluding Report taking into consideration all modalities finalised by the One-Man Committee. It is submitted that Government Order Nos. 24, 25 and 26 dated 29.05.2014 were not subject matter of challenge either before the
- E High Court or this Court and all the parties had agreed to abide by the said Government Orders. In terms of Government Orders, ratio of employees of Telangana State and Andhra Pradesh is 2550:3552. The figures given by applicants in their M.A. No.1286/2020 in paragraphs (e) and (f) are the figures, which are not correct and have never been
- F placed before the One-Man Committee. The applicants are endeavouring to re-open all issues of allocation by means of this M.A. whereas under the orders of this Court dated 28.11.2018, the report of One-Man Committee was binding on both the power utilities. The Telangana State power utilities by one or other means right from very beginning have been harping only on principle of nativity, which was specifically
- G disapproved by the High Court. The submission of the applicant that the allocation exercise was to confine only to 1157 employees is not correct. Although, it is true that before the High Court, the challenge was to the unilaterally relieved 1157 by Telangana State power utilities and this Court in its judgment dated 28.11.2018 has also observed that One-Man
- H Committee would determine the modalities for distributing the personnel,

i.e., the aforesaid 1157 employees. This Court has clarified that in case dispute persists in respect of other employees of these Power Utility Companies to the two States, it would be open to the respective States/Power Utility Companies to bring the same before the said Committee. It is, thus, clear that the remit of the One-Man Committee was not confined to 1157 employees only. In view of the dispute submitted before the One-Man Committee, the allocation of all allocated employees was open for consideration. Shri Kaul submits that population ratio has to be basis of allocation. He has referred to Section 2(h) and Section 53 of the Andhra Pradesh Reorganisation Act, 2014. It is further submitted that three Government Order Nos.24, 25 and 26 dated 29.05.2014 referred to population ratio, hence, the said ratio could not have been ignored while allocating. It is submitted that the Andhra Pradesh power utilities had not raised any objection with regard to modalities formulated by the One-Man Committee. The entire dispute arose out of unilaterally relieving of 1157 employees by Telangana State power utilities to Andhra Pradesh power utilities on the basis of nativity, which action was struck down by the High Court and confirmed by this Court. It is submitted that while submitting Final Report dated 26.12.2019, One-Man Committee had only approved list of 655 employees submitted by Telangana State power utilities to be allocated to Andhra Pradesh power utilities but no reciprocal allocation from Andhra Pradesh power utilities to Telangana power utilities was undertaken. At that stage, Andhra Pradesh power utilities had come before this Court by filing M.A. and this Court on 24.01.2020 permitted the parties to go back to the One-Man Committee to represent for correction of errors. Supplementary Report dated 11.03.2020 was given to correct the balance. The Sub-Committee Members of Andhra Pradesh was entrusted to select 584 names to be allocated to Telangana State power utilities, since Telangana State Power Utilities has already agreed to accept 71 cases relating to spouse and medical grounds. Thus, total allocation contemplated from Andhra Pradesh power utilities to Telangana State power utilities was 655, i.e.,  $71+584$ . It is submitted that the case of the applicant that out of 1157 employees 502 were allocated to Telangana State power utilities and 655 to Andhra Pradesh power utilities is without any basis. When a list of 1157 employees unilaterally relieved by Telangana State power utilities was struck down by the High Court, all those 1157 continued to be part of Telangana State power utilities, only allocation was of 655 by Final Report from Telangana State power utilities to Andhra Pradesh power utilities. The figure of 502 is

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- A unnecessary being claimed and pressed by applicants to confuse the issue. Further, 242 employees were also not covered by any part of allocation by One-Man Committee. 242 is number where employees working in Andhra Pradesh power utilities, who got them self-relieved and joined Telangana State power utilities on their own. Telangana State power utilities had accepted joining of 242 self-relieved employees, it is their burden to shoulder. The allocation, which has been finalised by One-Man Committee is those of 655 from Telangana State power utilities to Andhra Pradesh power utilities and 655 from Andhra Pradesh power utilities to Telangana State power utilities. Members of Sub-Committee of Andhra Pradesh power utilities were rightly asked to submit a list of
- B 584 members, which are proposed to be allocated to Telangana State power utilities, since 71 out of 655 were already accepted by Telangana. The submission that 484 are not from the list of 2165 has also been dealt with by One-Man Committee in the Final Report. Selection of 584 from Andhra Pradesh power utilities to Telangana State power utilities were not to be based on only nativity whereas list of 2165, which was placed before One-Man Committee was the list of those employees, who had indicated their hometown as territory of Telangana State. Modality (V), which requires the consideration of option of employees for adjusting them in the State in which their home district falls as far as possible. There was no mandate in the modalities or under law to allocate
- C employees to his/their home district. All modalities including the option and seniority were to be considered while finalising the allocation. The list of 655 employees was earlier submitted by Telangana State power utilities and approved by One-Man Committee in Final Report dated 26.12.2019. The Andhra Pradesh power utilities were also entitled to select 655 to be sent to Telangana State power utilities. After the
- D Concluding Report dated 20.06.2020, further deletion and addition from the two lists was consequential in pursuance of direction Nos. I and II. With regard to direction No.III, there was no addition or subtraction. Direction Nos. I and II were issued by One-Man Committee in the ends of justice to adjust the equities for which no exception can be taken by
- E the applicants. In the Supplementary Report in paragraph 21, it was already noticed that parties have agreed that all retired employees between years 2014 to 2020 in each power utility in each State need not be displaced only for pensioner benefits payable to them. The direction No.I was in accord to the aforesaid agreement between the parties with only modification that the aforesaid direction has been extended to
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employees, who are going to retire on 31.12.2020. The above direction A  
protects the financial interest of both the States as well as the employees.  
One-Man Committee, which has been empowered to take a final decision  
regarding allocation was fully entitled to seek any further direction looking  
to the fact that the allocation process has taken considerable time and  
some further adjustments were required to be made by the One-Man  
Committee.

19. Shri Dushyant Dave, learned senior counsel appearing for the B  
Telangana Electricity Engineers Association submits that One-Man  
Committee has travelled outside the limits of both the Concluding Report  
and Supplementary Report and are not correct. It is submitted that C  
allocation in Telangana State power utilities being excessive the prospect  
of promotion of Engineers working in Telangana are affected. The  
Telangana State power utilities have been over burdened with a large  
number of employees, which is contrary to the spirit of Andhra Pradesh  
Reorganisation Act, 2014 and prospect from the employees hailing from D  
the Telangana is affected.

20. Shri Balasubramanian, learned senior counsel appearing for E  
APSPDCL relieved employees contends that the distribution business  
of Anantapur and Kurnool Districts of erstwhile Andhra Pradesh Central  
Power Distribution Company Ltd. was merged with Andhra Pradesh  
Southern Power Distribution Corporation Ltd. by G.O. No.24 dated  
29.05.2014 and in fact those employees were not subject to any further  
allocation. He submits that the names of the applicants were not included  
in the Final Report dated 26.12.2019 but now it has come in the F  
Supplementary Report and the Concluding Report, which deserves to  
be set aside.

21. Shri P.V. Surendranath, learned senior counsel submits that G  
One-Man Committee has not taken into consideration the judgment of  
this Court in **Telangana Judges Association Vs. Union of India,**  
**(2018) SCC Online SC 1729**, which was referred to by this Court in  
its judgment dated 28.11.2018 deciding the Civil Appeal No.11435/2018.  
He further submits that in Supplementary Report modalities earlier  
finalised have been obliterated.

22. Shri Ravi Shankar Jindhiyala, learned counsel appearing in H  
M.A. Diary No. 13844 of 2020 submits that the applicants are senior  
most employees and they were relieved from Telangana State power

- A utilities to Andhra Pradesh power utilities, they are not being paid salary citing direction No. I of Concluding Report dated 20.06.2020.

23. We have considered the submissions of the learned counsel for the parties and have perused the records.

- B 24. Before we enter into the submissions of learned counsel for the parties, it is necessary to consider the scope of these miscellaneous applications qua the One-Man Committee's Report. In order dated 28.11.2018 passed by this Court appointing One Man's Committee, this Court made clear that decision of the One-Man Committee shall be final and binding on the all the parties including Power Utility Companies of the two States. relevant part of the order is as follows:-

“We make it clear that the decision of the one man Committee head by Justice Dharmadhikari shall be final and binding on all the parties including Power Utility Companies of the two States as well as the employees and shall be executed by all the

- D parties as an order of this Court.”

25. While disposing of the appeal, this Court, however, made following observations:-

- E “However, in case, any clarification or further direction is required by any of the parties they are entitled to approach this Court by filing interlocutory application in these proceedings.”

- F 26. The liberty granted to parties to seek clarification or further direction was with object to complete the process of distributing the personnel between two States. There was no right of appeal given to any of the parties or any officer or employee against the report of One-Man Committee. The power utilities of both the States having not been able to arrive at any consensus to finally determine the modalities to distribute the personnel between two States, this Court constituted One-Man Committee to decide the dispute. When this Court clearly directed as noted above that decision of One-Man Committee shall be final and binding on all the parties including power utility companies as well as the employees, the decision of the One-Man Committee has to be given due weight and cannot be lightly interfered with. The scope of these miscellaneous applications is, thus, very limited and by these miscellaneous applications, the power utilities of both the States cannot be allowed to seek re-examination of various issues, which were raised before One-Man Committee.

27. As noted above, it is Section 82 of the Andhra Pradesh Reorganisation Act, 2014, which deals with employees of public sector undertaking. The key words in Section 82 are “the corporate body concerned shall determine the modalities for distributing the personnel between the two successor States”. The High Court in its impugned judgment dated 02.02.2018 while answering point No.2 framed by the High Court had observed in paragraph 51:- A

“51. For the foregoing reasons, we hold point No.1 in the negative and against the Telangana State Government and the Telangana State power utilities. Under point No.2, we hold that the phrase “corporate body concerned” shall be read as “corporate bodies concerned” and the words “between the two successor States” have to be construed as “two successor corporations/companies.” C

28. Thus, as per the statutory Scheme delineated by Section 82, the power utilities themselves were contemplated to determine the modalities for distributing the personnel between two successor corporations/companies. It was due to failure of power utilities of both the States to arrive at a consensus and after unilateral decision of power utilities of Telangana to relieve 1157 employees from Telangana to Andhra Pradesh merely on the ground of nativity, the litigation started in the High Court by filing various writ petitions. The reference of three Government Orders, which were issued by erstwhile State of Andhra Pradesh on 29.05.2014, which has been referred to and relied by One-Man Committee also need to be noted. Government Order No. 24 dated 29.05.2014 was issued by Government of Andhra Pradesh, which Government Order states:- D

“ENERGY (CC) DEPARTMENT F  
G.O.Ms.No. 24.                           Dated: 29-05-2014

As the two districts of Ananthapur and Kurnool fall within the residual state of AP, in accordance with Schedule XII of Andhra Pradesh Reorganization Act 2014, it is necessary to reassign the distribution business of these two districts to the present APSPDCL from APCPDCL. The assets and liabilities shall be reassigned to APSPDCL as per the Section 53 of the Act. To facilitate the reassignment of the distribution business of the two districts of Ananthapur and Kurnool to APSPDCL as per the Act, following guidelines are issued. G

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- A      **I. Effective Date/Appointed Date:** The Effective/Appointed date for transfer of the business is 02.06.2014.
- II. Employees:** All the employees working in Kurnool and Ananthapur circles on the appointed day will continue to work in the same places till the final allotment of employees to the respective DISCOMS is completed in accordance with guidelines to be issued by government separately in this regard. Their salaries will be paid by APCPDCL and reimbursed by APSPDCL on monthly basis till the final allotment is completed. Provisional allocation of staff will be done as per State Government guidelines.”
- B      29. Another Government Order being G.O. No.25 dated 29.05.2014 was issued for allocation of AP GENCO for Telangana, the posts and staff to be transferred to the newly created Telangana GENCO was to be in accordance with the Guidelines contained therein. All sanctioned posts for Telangana Region Projects located in Telangana State shall stand transferred to Telangana GENCO w.e.f. effective date. Paragraph 6 of the Government Order dealt with allocation of sanctioned technical posts at Head Quarters and allocation of sanctioned common services posts at Head Quarters. Another Government Order No.26 dated 29.05.2014 was issued containing Guidelines on separate creation of
- C      E TRANSSCO for Telangana State. In paragraph 5 of the Government Order, which deals with transfer of posts to TG TRANSSCO, following was stated:-
- “5. Transfer of posts to TG TRANSSCO:** All the posts related to District, Field and Zonal offices including Central Training Institute at Hyderabad located in Telangana State shall stand transferred to TG TRANSSCO with effect from Effective date. Posts at AP TRANSSCO Head Quarter shall be divided between two Transcos based on population ratio of respective state. Based on this principle, head quarter posts transferred to TG TRANSSCO is listed in Annexure- C.”
- D      F 30. The above three Government Orders, which were issued with regard to these power distribution companies, generation and transmission were relevant for the subject. There was no challenge to the aforesaid Government Orders either before the High Court or before this Court. In paragraph 39 of the judgment of the High Court, following was
- E      G observed by the High Court:-

“**39.** A doubt would arise as to when the State Government has no power for distribution of the personnel between the two successor bodies, whether it has the power to distribute the posts. Neither of the successor States nor the successor power utilities have challenged the validity of these G.Os., allocating the posts among the successor power utilities. Even during the hearing, neither of the two Advocates General has either taken the stand that there was no allocation of the posts, nor advanced any submission against such allocation. Therefore, there could be no impediment for the allocation of the employees based on the allocation of the posts made in the aforementioned G.Os. In the alternative, if the joint committee of the power utilities feel that amendments or adjustments to the allocation of posts made under the aforementioned three GOs are necessary, they shall be free to do so based on the consensus.”

31. As noted above, the judgment of the High Court was upheld by this Court in its judgment dated 28.11.2018. Now, we need to notice the modalities, which were finalised by One-Man Committee. on 17.04.2019, final modalities to the following effect were finalised by One-Man Committee:-

“(I) All Identifiable allocable employees.

I. All State Cadre Employees of the rank of Assistant Engineer and equivalent post and above.

II. All posts at the Head Quarters of APEGENCO, APTRANSCO and DISCOMs falling within the territory of the two States are allocable.

(II) All identified allocable employees in Power utilities of united Andhra Pradesh (including 1157 unilaterally relieved by Telangana + 229 unilaterally allowed to join by Telangana) will be considered for final allocation to the new States of Andhra Pradesh and Telangana on “as is where is basis” on the appointed day on 2.6.2014 in accordance with the provisions of Section 82 of the Act of 2014.

(III) The allocation of employees to the two new States would be Power Utility-wise (i.e GENCO, TRANSCO and DISCOMs) in proportion to the posts sanctioned in each Power Utility and in accordance with G.O.Ms No. 24 for DISCOMs and G.O.Ms No.25

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- A for GENCO and G.O.Ms No.26 for TRANSCO issued by Energy (CC Department) of Government of Andhra Pradesh under section 53 of the Act of 2014.
  - (IV) The allocable employees will have liberty to give options in the prescribed form Annexed to the present modalities. However, the employees who have already exercised options, will not be allowed again to submit options for a different place or location in any of the two States. The opportunity of submitting option in the prescribed form would be available only to such employees who have not submitted their options earlier.
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- C (V) The allocable employees would, as far as possible, after consideration of their options be adjusted in the State in which their Home District falls as per the information contained in their service records and obtained from them through the information available and provided by them in their written representations.
- D (VI) The Provisional Allocation list after preparation will be displayed on the Notice Board of the Head Quarters of each Power Utility and also put on the website and other electronic sites for information of the employees. The employees may take up their written representations within three weeks from the date of the optics for proposed allocation.
- E (VII) Representations of the employees in respect of proposed allocation shall be duly considered by Two Member Sub Committee comprising One Member each of the Power Utilities within the area of AP and TS. After considering the representations of the employees by the Sub Committee, the proposed Allocation List will be submitted to the One Man Committee.
- F (VIII) The employees of the category of SCs and STs shall as far as possible, be allotted to the appropriate company in the State in which the concerned SC or ST employee is notified as such in accordance with the Constitutional Provisions.
- G (IX) Case of alleviation of extreme personal hardship of State Government employees will be exceptions to the principle. It would be open to Committee to consider the representation or request of allocation on case to case basis.
- H (X) Widowed Female employees legally separated and divorced women employees will be considered for allocation to the State,

basing on their request for allotment. It would be open to the committee to consider the representation or request of allocation on case to case basis. A

(XI) Handicapped persons of more than 60% disability may be allocated on the basis of option, subject to the procedure prescribed by the State Government. It would be open to the committee to consider the representations or request of allocation on case to case basis. B

(XII) An employee of whose spouse or child is known to be facing serious medical hardship, like in cases of cancer, open heart bypass, and kidney transplant/kidney failure dependent on dialysis or mentally challenged, shall be considered for allotment on special grounds on the basis of request of allotment, subject to strict proof of verification as per the procedure prescribed by the State Government. It would be open to the committee to consider the representation or request of allocation on case to case basis. C

(XIII) In spouse cases, where the employee of the Spouse working in State Government, Central Government, State Government institutions, Local Bodies, the following guidelines may be adopted. It would be open to the Committee to consider the representation or request of allocation on case to case basis. D

(I) Allocation of both spouses may be considered for the state to which both of them are native. E

(II) In case where one of them is working in State Power Utilities and other is working in PSU/Defence Organizations/ Railways/ Banking and Insurance Sectors/ Central Government/ State Government, the said cases may be considered on case to case basis. F

(III) Spouses who belong to different States (AP /TS) may be allocated together as per their request to one State.

(XIV) All the employees who have retired/ died after the Appointed Day and the pensioners shall be allotted as per the above formulated modalities.” G

32. The modality No.(III) as above provides that the allocation of employees to the two new States would be Power Utility-wise in proportion to the posts sanctioned in each Power Utility and in accordance H

- A with G.O.Ms Nos. 24, 25 and 26. The modality No.(IV) provided for a liberty to allocable employees to give options in the prescribed form. Modality NO.(II) also contemplate that all identified allocable employees in Power utilities of united Andhra Pradesh will be considered for final allocation to the new States of Andhra Pradesh and Telangana on “as is where is basis” on the appointed day on 2.6.2014. The One-Man Committee had also constituted a Sub-Committee consisting of one representative of power utilities of Andhra Pradesh and one representative of power utilities of Telangana to assist One-Man Committee in finalising the distribution. After framing of the modalities, One-Man Committee proceeded with the task. The member of Sub-Committee of Telangana
- B utilities had submitted a list of 655 employees out of 1157 earlier unilaterally relieved by Telangana power utilities to be allocated to Andhra Pradesh utilities. One-Man Committee submitted a Final Report dated 26.12.2019 alongwith which final allocation list for the two States’ corporations/companies wise was annexed. The list of 655 employees, which was proposed by Sub-Committee Member of Telangana was approved to be allocated to different power utilities of Andhra Pradesh. The Andhra Pradesh Power Generation Corporation Ltd. filed application being M.A. No.60 of 2020 in this Court seeking certain direction with regard to Final Report dated 26.12.2019, copy of M.A. No.60 of 2020 has been brought on record as Annexure R-10 to the common counter
- C affidavit filed on behalf of respondent. One of the issues raised in the application was that although One-Man committee has approved the list of 655 employees allocating them to Andhra Pradesh power utilities but no allocation was made in respect of 3517 allocable employees working on order to serve basis in Andhra Pradesh power utilities. In paragraph 4c, d and e following has been pleaded:-
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  - c. That the names of the 3517 state cadre allocable employees working in AP Power utilities are not found any mention in the final report dated 26-12-2019.
  - d. Moreover, an additional 655 employees were unlawfully thrust upon the AP power utilities over and above the allocable posts available with AP power utilities.
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  - e. That because of the above omission, there is an inward transfer of additional 655 employees from Telangana to AP over and above the 3517 employees, who are already working on order to serve basis and there is no outward transfer of any employees from AP
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to Telangana. the obvious result is that instead of the allocation of all 6102 allocable employees in percentages between the two States as given in the GO Ms. 24, 25 and 26, the ratio has now skewed more towards AP because of the proposed inward transfer. In other words, AP is being forced to absorb in excess of the allocable posts mandated by the Reorganisation Act as well as the binding G.O.s.”

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33. M.A. No. 60 of 2020 was disposed of by this Court by order dated 24.01.2020 where this Court made following observations:-

“This Court by the final judgment having entrusted the work of allocation to one man committee, as agreed by parties, the modalities finalized by one man committee is binding on all, to which, there is no dissension between the parties. There being no dispute regarding modalities, in event, there is some error or mistake in the working of the modalities that can be pointed out to the same committee by means of a representation and we hope and trust that the committee shall look into the said grievance and correct the error, if any. We also make it clear that if the representation is submitted by the applicant, copy of the same shall be given to the power utilities of both the Sates, who may also have liberty to submit a response to those representation, which may be considered by the one man committee. The representation be submitted within two weeks and response thereto be also submitted within two weeks thereafter.”

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34. After the order dated 24.01.2020, One-Man Committee heard the Andhra Pradesh power utilities, which made a representation to One-Man Committee to rectify the list. A reply was also submitted by Telangana State power utilities. On 23.02.2020, the One-Man Committee held a meeting for consideration of the representation. In pursuance of the deliberations, T.S. power utilities submitted their proposals for accommodating 71 employees on spouse and medical grounds. on 11.03.2020, One-Man Committee issued a Supplementary Report. In the Supplementary Report, One-Man Committee noted that 655 employees, who were allocated from T.S. power utilities to A.P. power utilities have already been relieved. One-Man Committee has further observed that to complete the allocation process comprehensively by including all allocable employees alongwith 1157 ex-parte relieved, a separate exercise has been undertaken. One-Man Committee noted that

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A with regard to 71 employees from A.P. power utilities to Telangana State power utilities both the parties have agreed and the list of 71 employees was annexed alongwith the Report. Paragraphs 21, 22, 23 and 27 of the Supplementary Report, which are relevant, are to the following effect:-

B “**21.** It was also agreed by the Parties that all retired employees between years 2014 to 2020 in each Power Utility in each State need not be displaced only for pensioner benefits payable to them.

C **22.** On the basis of the Allocation Lists proposed by AP Power Utilities, the present Committee has identified and listed in Annexed lists with the present Supplementary Report, total 2165 employees which include 1157 earlier relieved and were working on the side of Telangana on the basis of the stay orders of the High Court and Hon’ble Supreme Court. Those employees continued to serve in TS Companies on the basis of the order of the Court. Out of above mentioned 1157 the employees, numbering 655 have been relieved by TS for AP Companies who are awaiting joining, posting and payments of their salaries.

D **23.** The present Committee in the lists annexed to the present Supplementary Report has identified total 2165 employees as suitable for allocation to TS Companies on the basis of the Modalities agreed by the parties and approved by Supreme Court.

E The breakup of employees presently working in AP Companies which are identified as suitable for allocation to TS Companies are as under:-

COMPANIES	EMPLOYEES IN NUMBER
TRANSCO	993
TSGENCO	1125
TSSPDCL	47
<b>TOTAL</b>	<b>2165</b>

F **27.** The present Committee is entrusting the work to the member of the Sub-Committee representing AP side, of identification of 584 employees from the lists Annexed to the Supplementary Report of the Committee for Allocating them from AP Power Utilities to TS Power Utilities. It needs mention that the abovementioned 584 employees should be other than 655 employees out of earlier relieved 1157 and who are awaiting orders of joining, posting and payment of salary from Andhra Pradesh Side.”

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35. The One-Man Committee further issued certain clarification on 13.03.2020 on receipt of the letter dated 12.03.2020 on behalf of Telangana State power utilities. After the issue of Supplementary Report, Sub-Committee Member of Andhra Pradesh power utilities submitted a letter dated 12.03.2020 submitting a list of 584 persons identified as per Supplementary Report dated 11.03.2020 to be allocated to Telangana power utilities. Telangana power utilities has raised objections regarding list of 584 employees and also filed a Miscellaneous Application No.920 of 2020. This Court disposed of the M.A. No.920 of 2020 with the observation that objection with regard to 584 employees raised by Telangana power utilities are to be considered by One-Man Committee. Various employees sent different representations to power utilities as well as to the One-Man Committee. One-Man Committee issued a direction dated 11.05.2020 directing both the sides to consider representations received from the employees effectively and send their revised proposed allocations. The Sub-Committee Member of Andhra Pradesh submitted a letter dated 26.05.2020 revising the list of 584 persons to be allocated to Telangana State power utilities. The list submitted by letter dated 26.05.2020 was objected by Telangana power utilities by their letter dated 10.06.2020. After considering the list submitted by Sub-Committee Member of Andhra Pradesh and the objection of Telangana, Concluding Report has been submitted by One-Man Committee dated 20.06.2020.

36. In M.A. No. 1286 of 2020, learned counsel for the applicants in paragraphs E and F has given certain figures regarding allocation as per Report dated 26.12.2019 and as per Report dated 20.06.2020. Applicants have also disputed the number of allocable employees as claimed by Andhra Pradesh power utilities. The number of allocable employees as claimed on behalf of the Andhra Pradesh power utilities, i.e., 6102 has been questioned in the application. It is submitted that allocable employees were not 6102 but were much more. It has been claimed that as per Concluding Report, Telangana State power utilities have now been allocated 5115 employees and Andhra Pradesh power utilities have been allocated 3552 employees, thus, as per claim of the applicants by final Concluding Report actually 8667 employees have been allocated. The above figures have been stoutly refuted by learned counsel appearing for the Andhra Pradesh power utilities submitting that figures, which are now sought to be claimed in the application by applicant was never placed before the One-Man Committee and the figures given

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- A by the applicants are all imaginary and needs no consideration. It is submitted by the respondent that endeavour of the applicants is to confuse the issue by giving all wrong figures.
37. To satisfy ourselves with regard to figures of allocable employees, which were placed before the One-Man Committee, we have looked into the claim of respective parties as was placed before the One-Man Committee. In letter dated 26.05.2020, Annexure R-19 to the common counter affidavit, details relating to allocable employees as per three Government Orders were mentioned as 6102. In paragraphs 9 and 18, following has been stated:-
- C “9. The stated stand of the AP utilities has been as mentioned in the above order dated 01.05.2020 passed by the Hon’ble Supreme Court of India is that ratios as per GOs be maintained, i.e., out of **6102** “allocable” employees. **3552** is the threshold limit of Andhra Pradesh Utilities and **2550** is threshold limit of Telangana Power Utilities. The said numbers are sacrosanct and cannot be altered.
- D The committee was constituted and empowered to consider allocation of all allocable employees and was not limited to 1157 employees as was and continued to be contended by Telangana Utilities. Further the Telangana Utilities continue to seek allocation of “Nativity” principle. Both the stands of the Telangana Utilities have been rejected which is the essence of AP Reorganization Act, 2014 read with Modalities finalized by the Hon’ble One Man Committee. Secondly the allocation will be strictly in accordance with the GOs and all other modalities to be applied on case to case basis; as far as possible. It is most humbly submitted that, while identifying the 655 that were allotted to AP utilities, the Telangana Utilities have not applied any scientific mechanism or the modalities but is based primarily on the “Nativity/Home district” Principle: whereas identification of 584 employees by A.P. Utilities is based on objective criteria contained in the working modalities, aided by the DoPT guidelines and is in accordance with the directions of the courts in this regard. The identification of personnel on cadre basis has been carried out such that the 655 employees are balanced with (584+71) so that **financial neutrality** is maintained.
- G 18. That, at very outset it is submitted that TS Power Utilities are again seeking to reopen the whole allocation. There is an all-out

attempt to confuse the numbers and thus for clarity, the numbers A are explained hereunder.

- 18.1 Total Number of Allocable Employees is 6102 as on 02.06.2014. A
- 18.2 Ratios as laid down by the provisions of the AP Reorganization Act and the binding GOs as per the modalities is Andhra Pradesh power utilities: Telangana power utilities = 3552:2550. B
- 18.3 As on 02.06.2014 employees working on order to serve with Andhra Pradesh utilities are 3552 and similarly employees working on order to serve with Telangana Utilities are 2550. C
- 18.4 Final Report dated 26.12.2019 allocated 3552 (already working on order to serve) plus additional 655 making total of 4207 to AP utilities and reduced the number of employees in Telangana utilities to 1895, thus, skewing the balance and disrupting the ratios under the GOs. D
- 18.5 Citing the mismatch of ratios i.e., 3552:2550 for which AP utilities had approached Hon'ble Supreme Court vide their clarification petition vide MA Nos. 60, 61 and 62. Hon'ble Supreme Court appreciated the errors in the Allocation and directed the AP Power Utilities to approach this Hon'ble Committee for rectification of errors and application of Modalities strictly. E F
- 18.6 Thus the Hon'ble one man committee held proceedings at Delhi and by accepting the doctrine of 'financial neutrality' vide **Supplementary Report dated 11.03.2020** the above errors in ratios which had crept in were corrected and cured and thus with same ratio as stipulated in GOs 3552:2550 has been restored and 655 allotted to AP are balanced by corresponding 655 (584 + 71) allotted to TS." G
38. The claim as made by Sub-Committee Member of the Andhra Pradesh power utilities was objected by the applicants and they have filed a detailed letter dated 10.06.2020 which letter is part of M.A. H

- A No.1270/2020 whereby replying paragraph 9, following has been stated in paragraph 9.1:-
- “**9.1.** Further, the order dated 1-5-2020 of the Hon’ble Supreme Court does not refer to the Government orders or that out of **6102** allocable employees, **3552** is the threshold limit of AP Power Utilities and **2550** is threshold limit of TS Power Utilities. Such an averment is misleading. In this regard it is submitted that, the figures as given by the Member, AP in Para-9 is incorrect even as per the list furnished by the AP Power Utilities to the Hon’ble OMC on 23-02-2020. According to their own [A.P Power Utilities] Final list of employees submitted to your Lordship on 23-02-2020 the total allocable employees are **6198** and not **6102** employees as has been stated now. In the list of **6198** employees, as was furnished by AP Power utilities, **2225** employees were found allocable to TS Power Utilities and **3973** employees to AP Power Utilities. And out of the **2225** employees found allocable to TS Power Utilities; the Hon’ble OMC had identified **2165** employees suitable for allocation to TS Power Utilities in Para-23 of the Supplementary Report dtd: 11-03-2020. Therefore, the figures as specified now in Para-9 of the letter dtd:26-05-2020 is incorrect and has been done without any basis and only with a view to create confusion and complicate the issue. The population ratio has no relevancy for allocation of the employees in terms of Section 82 of A.P. Reorganization Act, 2014.”
39. The claim made in paragraph 18 of the letter dated 26.05.2020 was further objected in paragraph 15 of the letter dated 10.06.2020. The Telangana State power utilities have repeated the same averments, which have been noted in paragraph 9.1 as above. From the materials placed by the applicants before the One-Man Committee in response to the claim of 6102 employees allocable on 02.06.2014, no figure of their own has been submitted by the applicants rather they only say that Andhra Pradesh power utilities itself have given a figure of 6198 in place of 6102. When no materials have been placed before the One-Man Committee with regard to number of allocable employees on 02.06.2014, it is not open for the applicants to give new figures before this Court. This Court cannot permit the parties to reopen the number of allocable employees as on 02.01.2020 to anything contrary, which was not placed before the One-Man Committee. We, thus, are of the view
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that figures, now, sought to be given in M.A. No.1286 of 2020 need to be ignored. We, thus, do not find any error in the allocations made by the One-Man Committee in its Concluding Report dated 20.06.2020.

40. We may further observe that the list of 655 employees submitted by Telangana State power utilities for allocation to Andhra Pradesh power utilities has been approved by the One-Man Committee for which there is no dispute. The One-Man Committee has undertaken exercise to identify the list of 655 employees from Andhra Pradesh power utilities to be transferred to Telangana State power utilities. The proceeding to balance the number of employees from Telangana State power utilities to Andhra Pradesh power utilities being 655, we fail to understand that how the applicants can raise the issue regarding number of allocable employees to be considered by this Court in these proceedings.

41. The submission which has been much pressed by the learned counsel for the applicants is that number of employees allocated to Telangana State power utilities is much more as compared to those which have been allocated from Telangana State power utilities to Andhra Pradesh power utilities. The applicants have repeatedly in their application and their objection before the One-Man Committee have referred to 502 out of 1157, 242 self-relieved employees and 71 spouse and medical cases plus 584 which have been permitted to be identified by Member of Andhra Pradesh Sub-Committee. The submission is that  $502+242+71+584$  becomes 1399, hence 1399 have been allocated to Telangana State power utilities as against 655, which has been allocated from Telangana State power utilities to Andhra Pradesh power utilities. We may need to look into the above submission on the basis of each figure claimed by the applicant.

42. Now, coming to figure 502, which according to the applicant is balance from 1157 by reducing it by 655. The 502 figure as noted above, 1157 is the number of persons, which were initially relieved by Telangana State power utilities to Andhra Pradesh power utilities unilaterally which decision was set aside by the High Court and was upheld by this Court. Out of 1157 only 655 have been allocated to Andhra Pradesh power utilities, which was approved by Final Report dated 26.12.2019 of the One-Man Committee. How allocation of 502 is claimed when they are the employees, who remained on Telangana State without they being allocated to Andhra Pradesh power utilities apart from 655

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- A from Telangana State to Andhra Pradesh. Further employees working in Telangana State were allowed to remain in Telangana State, hence, allocation from Telangana State to Andhra Pradesh is only 655 and addition of 502 is wholly inappropriate.

43. Now, we come to number 242, which is number of self-relieved employees from Andhra Pradesh to Telangana State. Admittedly, 242 employees are, thus, who got themselves self-relieved from Andhra Pradesh without there being any order or without there being any direction by anyone. These 242 employees were permitted joining by Telangana power utilities by its own. These 242 employees having never been allocated to nor being part of any allocation cannot be added in figure by Telangana State. Now, we come to 71, which is agreed spouse and medical ground cases by both the parties. 71 is part of 655, which is now being identified by Andhra Pradesh to be allocated to Telangana State. By taking this no.71 in Supplementary Report permitting Andhra Pradesh to identify only 584, thus, it is only 584+71, i.e., 655 employees, which are now being sought to be allocated to the Telangana State by One-Man Committee. We, thus, do not find any merit in the contention of the applicant that 1399 employees have been allocated to Telangana State as against 655 allocated from Telangana State to Andhra Pradesh.

44. Now, another limb of attack of the applicants is on the selection of 584 employees, which have been approved by the Concluding Report to be allocated to the Telangana State. It is submitted by applicants that in Supplementary Report dated 11.03.2020, the One-Man Committee has itself stated that there are 2165 employees, who are suitable for allocation to Telangana State companies, which has also been noticed in paragraph 23 of the Supplementary Report. When the Andhra Pradesh Sub-Committee Member vide letter dated 26.05.2020 has submitted the revised list of 584, immediately objection was raised by Telangana State vide letter dated 10.06.2020 raising an objection that 584 does not form part of 2165 from which only the A.P. Sub-Committee had to identify 584. Initially by letter dated 12.03.2020, the Andhra Pradesh Sub-Committee Members have selected 584 employees, which was modified by letter dated 26.05.2020. The reason for modification in the list have been given in letter dated 26.05.2020 of Andhra Pradesh power utilities. It has been stated that after Supplementary Report and direction dated 11.05.2020, representations were submitted by the employees with regard to rest of 584 and One-Man Committee issued a direction on 11.05.2020 H to the following effect:-

“Due to outbreak of Corona virus and consequent lock down imposed in India, a formal personal meeting with the members of the Sub-Committee for finalizing the process of allocation does not seem possible in near future. The dispute now seems to have narrowed down to 584 employees allocation by AP to TS side. Both sides are directed to consider the representations received from the employees collectively and individually and send their revised proposed allocation. Both sides should exchange their revised allocation Lists limited to 584 employees of AP who presently stand allocated to TS. The members of the Sub-Committee are directed to send their proposed revised lists latest by 1<sup>st</sup> June, 2020. As and when normalcy is restored in the country, if necessary, a formal personal meeting date will be communicated to the parties well in advance”.

45. Further in paragraph 13, following has been stated:-

“13. That the substitution which takes place in the annexed revised lists is in terms of directions dated 11.05.2020 issued by this Hon’ble Committee and in terms of orders passed by Hon’ble Supreme Court. The majority of representations were of the nature of Special Cases including spouse cases, medical cases, physically handicapped cases etc. Their grievances are addressed and on humanitarian grounds and substitutions have been affected strictly as per modalities. No revised options were considered in this exercise.”

46. The objection that list of 584 is not out of 2165 was considered by the One-Man Committee, which is reflected from the Concluding Report dated 20.06.2020. The above objection has been duly considered and answered by the One-Man Committee in paragraphs 25, 26, 27 and 28 of the Concluding Report, which is to the following effect:-

“25. The second submission on behalf of TS is that with the Supplementary Report, this Committee had Identified total 2165 employees in the list given to AP Sub Committee member for proposing allocation from that list. It is urged on behalf of TS, that allocation list proposed by AP is not out of 2165 listed employees with the Supplementary Report of this Committee.

26. It is true, as urged on behalf of TS, that with the Supplementary Report, this Committee had identified 2165 employees bused on

- A modality Nos. 5 which requires consideration of every employee for his home district and his adjustment as far as possible in the State in which his home district falls.
- 27.** This Committee has to be open to correction. The Committee is also of the view that modality No. V alone is not decisive and modalities no. I to IV are to be cumulatively taken into consideration and applied to make allocation in proportion to the available posts in each Company in the Two States. TS side has accepted that 114 employees from out of 584 employees proposed for allocation by A.P to T.S are included in 2165 employees identified by this Committee in the list annexed with Supplementary Report. The remaining 470 employees (falling outside 2165 employees identified with the supplementary report) have been proposed by A.P for T.S in the report of the Sub Committee Member. The justification shown is that it is to match the number of employees with the available posts in various companies.
- 28.** In the above circumstances, mentioned above, this Committee finds the Allocation Lists company-wise and post-wise proposed by AP deserves approval and it is so approved.”
47. One-Man Committee accepted the reasons given by Sub-Committee Member of Andhra Pradesh that list of 2165 was only considered on the basis of modality No.V and modality No.V itself cannot be the sole basis for allocation, hence other modalities were also taken into consideration before finalising the list of 584. It is true that in Supplementary Report dated 11.03.2020, the list of 2165 was indicated as list of suitable persons who are eligible to be allocated to Telangana State, however, the selection made of 584 by applying modalities No. I to V by the Andhra Pradesh Member Sub-Committee has found approval and even if all members of 584 does not form part of 2165, no exception can be taken to such allocation, which find approval by One-Man committee. We may further notice that insofar as the list of allocation of 655 employees is concerned, which was submitted by Telangana State power utilities, was approved by the One-Man Committee. The task to select 584 was rightly entrusted by One-Man Committee to Andhra Pradesh Sub-Committee Member since those 584 has to go to Telangana State from Andhra Pradesh and those 584, who are working in the territories of Andhra Pradesh. Andhra Pradesh utilities were the best suited to select 584 by applying all the modalities. Thus, the objection

raised by the applicants on selection of 584 having not been accepted by A the One-Man Committee, we see no reason to take any different view.

48. Now, one more objection of the applicants, which needs to be noticed is the objection that even the Concluding Report dated 20.06.2020 is not final report and Sub-Committee Member of Andhra Pradesh has been authorised to modify the list. Applicants have referred to direction B Nos. I, II and III of the Concluding Report, which is to the following effect:-

- I. In addition to the Directions contained in Para 21 of the Supplementary Report of this Committee regarding retired employees on both sides, it is further directed, that in both the States, employees who have attained or will be attaining 58 Years of age in the year 2020 will be kept out of the allocation process and their names in the Allocation Lists will be removed. C
- II. In the allocation process of the present dimension and undertaken after 5 years delay, it is not possible for the Committee to satisfy individual needs and comforts and service prospects of every employee. The allocation process has been finalized on laid down principles contained in the modalities and elbow room, wherever permissible, in the modalities has been given effect to. The committee however directs the Sub Committee member of AP to re-examine any left out spouse and medical cases and every attempt should be made to accommodate them in the state of their option. D E
- III. All SC/ST employees cases be re-examined to accommodate them as per modality VIII in the State where they are notified as SCs or STs so as not to affect their future service growth. F

49. Now, we first take the direction No.I of the One-Man Committee that those who have attained or will be attaining 58 Years of age in the year 2020 will be kept out of the allocation process and their names in the Allocation Lists will be removed. In Supplementary Report G in paragraph 21, the One-Man Committee has stated:-

**“21.** It was also agreed by the Parties that all retired employees between years 2014 to 2020 in each Power Utility in each State need not be displaced only for pensioner benefits payable to them.” H

- A        50. The above indicates that both the parties had agreed before the One-Man Committee that all retired employees between years 2014 to 2020 in each power utility in each State need not be displaced. Thus, the above was agreement between both the parties before the One-Man Committee and direction No.I only an extension of the said agreement, i.e., whoever shall be attaining 58 years of age in 2020 shall be kept out of allocation process. As per paragraph 21 of the Supplementary Report, those, who retire till then were already kept out of the allocation and the extension till the end of 2020 cannot be said to be unreasonable. The allocation process being not yet finalised and awaiting finalisation for last several years, those who retire either in C Telangana State or Andhra Pradesh has rightly been decided not to be displaced only for the purpose of shouldering pensionary liability. The direction No.I is equitable.
- B        51. The applicants further submit that after the Concluding Report dated 20.06.2020 by letter dated 26.06.2020, Andhra Pradesh power utilities have struck 119 names from the incoming 655 list from the Telangana State power utilities to Andhra Pradesh power utilities. We are of the view that the said dropping is only consequential to the decision of the One-Man Committee as reflected in paragraph 21 of Supplementary Report and direction No.I of Concluding Report. The Andhra Pradesh power utilities have also deleted 50 names from the list of 584 employees outgoing from Andhra Pradesh power utilities to Telangana State power utilities, which was again in compliance of the One-Man Committee's decision. Any consequential action taken in pursuance of the Concluding Report cannot be said to be not contemplated by the final Concluding Report or cannot be said to be an open ended report. The consequence of Concluding Report has to be taken to its logical ends. Further, 10 employees have been added by direction Nos. II and the reasons have been given in the letter dated 26.06.2020 for relieving them, which is again consequence of direction Nos.I and II. We, thus, are of the view that the One-Man Committee has considered all materials and objections placed before it by both sides including the representation of the employees and employees organisations submitted from time to time. The process which was initiated by submitting Final Report dated 26.12.2019 was supplemented by Supplementary Report dated 11.03.2020 and Concluding Report dated 20.06.2020. The One-Man Committee being aware of all objections and having taken a conscious decision to finalise the allocation between two States, we do

not find any such error in the process which may warrant any clarification or direction by this Court. We may further notice that the exercise undertaken by the One-Man Committee is to allocate 655 from Telangana State to Andhra Pradesh and same number from Andhra Pradesh to Telangana State. Apart from the above two allocations, other personnel, who were working in Telangana State and Andhra Pradesh were not disturbed by allocation.

52. Learned counsel for the applicants have also taken exception to reciprocity of 655 number. We do not find that there is any error in reciprocity. The One-Man Committee took a decision that when 655 employees are coming from Telangana State to Andhra Pradesh, same number should go from Andhra Pradesh to Telangana State. In the Concluding Report, final list has been annexed, which is utility-wise and personnel-wise, which is clear and unambiguous. We, thus, do not find any merit in the Miscellaneous Applications filed by Telangana State power utilities being M.A. Nos. 1286, 1290, 1292 and 1291, which are dismissed.

53. We may also need to deal with the submission of Shri Balasubramanian, learned senior counsel in M.A. No.1287 of 2020. The main submission of the learned counsel is that applicant being permanent employee of Andhra Pradesh Southern Power Distribution Company with regard to which G.O. No.24 dated 29.05.2014 was issued, no further allocation was required. It is submitted that Ananthapur and Kurnool districts were transferred from Central Power Distribution Company Ltd. to Southern Power Distribution Company Ltd. He submits that when allocation was made from Central Power Distribution Company to Southern Power Distribution Company Ltd., allocation was complete and no further allocation was necessary. Paragraph 2 of the Government Order reads as follows:-

**“II. Employees:** All the employees working in Kurnool and Ananthapur circles on the appointed day will continue to work in the same places till the final allotment of employees to the respective DISCOMS is completed in accordance with guidelines to be issued by government separately in this regard. Their salaries will be paid by APCPDCL and reimbursed by APSPDCL on monthly basis till the final allotment is completed. Provisional allocation of staff will be done as per State Government guidelines.”

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- A        54. The paragraph 2 above also contemplates final allotment. Before the High Court, one of the points framed for consideration was to the following effect:-
- “4. Whether the division of employees of the TSSPDCL need not be undertaken in view of clause C(8) of the Twelfth Schedule ?”
- B        55. The above points were categorically answered by the High Court in paragraph 59 of the judgment, which is to the following effect:-
- “**59.** The two Districts of Anantapur and Kurnool which were part of APCPDCL before the creation of the State of Telangana have been reassigned to the APSPDCL by clause C(8) of the Twelfth Schedule. The submission of Sri C.V. Mohan Reddy that in view of the said provision the need for division of the employees between the APSPDCL and the TSPDCL is obviated and the application of Section 82 of the Act has got excluded, is without any merit. Under clause C(8) of the Twelfth Schedule, the division was confined only to the territorial areas of the said two Districts. Neither the assets and liabilities nor the employees have been distributed by the said provision. Evidently, keeping this in mind, the A.P. State Government, before the appointed day, has merely divided the cadre strength between the two DISCOMS by G.O.Ms.No.24, dated 29-5-2014 while clearly envisaging therein the final allotment of the employees in future. It has also allowed the employees working in the said two Districts to continue to work in the same places till the final allotment of the employees to the respective DISCOMS is completed. It is therefore imperative that the allocation between the APSPDCL and the TSPDCL is made in the same way as allocation of the employees between the TRANSCOs and GENCOs of the two States is to be made after determining the modalities for such allocation.”
- C        56. The above judgment of the High Court having been upheld by this Court, the submission of learned counsel that no allocation process ought to be undertaken for applicants is without any merit. Further, submission of the learned counsel for the applicants that their names were not included in the Final List dated 26.12.2019 also does not in any manner militate against and their names subsequently included for allocation from Andhra Pradesh to Telangana State utilities. We having upheld the allocation made by the One-Man Committee from Andhra
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Pradesh to Telangana State also, we find no merit in M.A. No.1287 of A 2020, which stands rejected.

57. With regard to other M.A.s, which have been noticed above, we make it clear that the One-Man Committee was entrusted only with distribution of personnel between the two States, which distribution has been finalised by the One-Man Committee. Insofar as the allocation made by the One-Man Committee, no objection or challenge by any employee or officer is entertainable, we clarify that the One-Man Committee having completed the process of allocation, the said allocation cannot be challenged by any employee or officer or any utility before any forum. Insofar as other claims regarding salary or allowances as raised in different M.A.s, they need no consideration in these proceedings and employees of power utilities are free to adjudicate their claims before appropriate forum in accordance with law. All other M.A.s are disposed of accordingly.

58. We having found no merit in the objections to One-Man Committee's Concluding Report dated 20.06.2020 it is obligatory for power utilities of both the States and all concerned to carry out and implement the directions of the One-Man Committee Report.

Ankit Gyan

Miscellaneous Applications disposed of.