

P. N. Venugopal and Others D. Yadagiri and Others

Vs

A. P. State Electricity Board and Others

Civil Appeals Nos. 180-181 of 1994

(Kuldip Singh, Faizanuddin JJ)

27.02.1996

ORDER

1. The Andhra Pradesh State Electricity Board (the Board) issued an order dated 5-8-1981 which reads as under :

"PERSONNEL SERVICES DatedBPMs No. 664 5th August, 1981##

Read the following :

(1) BPMs No. 173, dated 24-4-1975.

The proposal to grant exemption from passing the departmental tests to the Lower Division Clerks, Typists/Stenotypists and Upper Division Clerks, who have rendered long service in the same post, who are not covered by the provisions of BP cited, for promotion to next higher category has been under consideration of the Board for some time past.

(2) After a careful consideration, the Andhra Pradesh State Electricity Board directs that the Lower Division Clerks, Typists/Stenotypists and Upper Division Clerks, who have good record of service and completed 15 years of service in the same post, shall be exempted from passing the tests prescribed in the Andhra Pradesh State Electricity Board Service Regulations, Part III as a precondition for promotion to the next higher posts of UD Clerk and Accountant/Superintendent, respectively."

2. The appellants were given relaxation from passing the test in terms of the above-quoted order. T. A. Ramasastry and various other similarly situated persons challenged the order granting relaxation to the appellants from passing the test. A learned Single Judge of the High Court dismissed the writ petition. The Appellate Bench, however, reversed the findings of the learned Single Judge and quashed the relaxation granted to the appellants and also set aside Order No. 664 quoted above.

3. Regulation 41 of the Andhra Pradesh State Electricity Board Service Regulations (the Regulations) which permits the Board to grant relaxation is as under :

"41. Relaxation of Regulations by the Board. - No regulation made in exercise of the powers conferred by sub-section (c) of Section 79 of the Electricity (Supply) Act, 1948 shall be construed to limit or abridge the power of the Board to deal with the case of any person serving under the Board in such manner as may appear to it to be just and equitable :

Provided that, where any such regulation is applicable to the case of any person or a class of persons, the cases shall not be dealt with in any manner less favourable to the person or class of persons than that provided by that regulation."

4. The learned Single Judge came to the conclusion that relaxation in terms of Regulation 41 could be granted in individual as well as in respect of a class of employees. The Division Bench, however, reversed the findings of the Single Judge and came to the conclusion that the language of Regulation 41 of the Regulations only permits relaxation in individual cases to achieve a just and equitable result.

5. We have heard learned counsel for the parties. It is not necessary for us to go into the correctness of the interpretation given by the Division Bench of the High Court. The relaxation was given to the appellants as far back as 1981. By that time, the appellants had already put in more than 15 years of service. After a further 15 years today, most of them would be nearing retirement. We are of the view that taking away the relief granted by the Electricity Board to the appellants in the year 1981 would do more harm than good. We, therefore, in the facts and circumstances of this case, uphold the relaxation from passing the test, granted to the appellants by the Board in the year 1981. We make it clear that we are not upholding the order of the Board on the interpretation of the Rule but keeping in view the time-lapse and also to obviate the injustice which is likely to be caused to the appellants in case the relaxation is withdrawn today.

6. We, therefore, set aside the judgment of the Division Bench of the High Court so far as the relief part is concerned and uphold the order of the Board granting relaxation to the appellants from passing the test. The appeals are allowed to the above extent. No costs.