

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.3674 OF 2020

Between:

P.Lalu Prasad

... **Petitioner**

And

The State of Telangana & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

MRS JUSTICE SUREPALLI NANDA

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.3674 OF 2020****% 03.06.2024****Between:**

P.Lalu Prasad

... Petitioner**And**

\$ The State of Telangana & others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Sri Ch.Prabhakar**^ Counsel for Respondents** : G.P. for Energy for R1,
Sri G.Vidya Sagar, for R2
Sri K.Laxmi Narasinha, for R4.

? Cases Referred:

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THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.3674 OF 2020****ORDER:**

Heard Sri Ch.Prabhakar, learned counsel appearing on behalf of the petitioner, learned Government Pleader for Energy, appearing on behalf of respondent No.1, learned Senior Designate Counsel Sri G.Vidya Sagar, appearing on behalf of respondent No.2, and learned Senior Designate Counsel Sri K.Laxmi Narasimha, appearing on behalf of respondent No.4.

PRAYER:

2. **The petitioner approached the court seeking prayer as under:**

"...to issue a writ of Mandamus by declaring the action of the respondents in non-appointing the petitioner as Junior Personnel Officer by following the Quantum of law of an Apex Court and the Division Bench Judgment of this Hon'ble Court in not including the name of the petitioner in the selection list, who secured 80 marks and stood Rank at 30th Rank by deleting the 4th respondent from selection list, who secured 80 marks and stood at 29th Rank is an illegal, arbitrary,

discriminatory, unjust, unfair, unreasonable, non-application of mind, in equity and in violative of Articles 14, 16, 19 and 21 of the Constitution of India and also against to the Principles of Natural Justice and against to the catena of Judgments of an Apex Court and this Hon'ble Court and consequently to direct the 2nd respondent to delete the name of the 4th respondent from the selection list and include the petitioner's name in the selection list and issue appointment orders to the petitioner as Junior Personnel Officer in pursuance of the Notification No.2/2019, dated 28.09.2019 by applying the horizontal reservation, which has stated by an Apex Court in the case of Rajesh Kumar Daria Vs. Rajasthan Public Service Commission reported in (2007) 8 SCC 785 and the same was followed by the Division Bench of this Hon'ble Court in the case of K.Venkatesh and another Vs. Government of Andhra Pradesh, which was reported in 2009 Law Suit (AP) 371 and also the Apex Court upheld the view in the case of Public Service Commission, Uttaranchal Vs. Mamta Bisht and Others which was reported in (2010) 12 SCC 204 and to pass..."

3. PERUSED THE RECORD.

A) The operative portion of the interim orders dated 03.03.2020 are extracted hereunder:

“However, prima facie, as seen from the Regulation 22-A, there is no absolute reservation and it only prescribes preference to the extent of 30%. It is subject to the merit secured by the Women as same, and subject to availability of Women in overall merit list to the extent of 30%. Thus, prima facie, selecting the candidate, who secured 79 marks, ignoring petitioner, may not be valid. Balance of convenience is in favour of petitioner. The respondents-company is directed not to fill up one post of Junior Personnel Officer meant for Schedule Tribe Women.”

The said orders are in force as on date.

B) The counter affidavit filed by the 2nd respondent, in particular, para 5, reads as under:

"5. It is submitted that the Writ Petitioner secured 80 marks and he belongs to ST General category. As per the Annexure to the Notification No. 2/2019, one ST General vacancy and one ST (W) vacancy is available. The ST to candidates are also eligible to compete with the OC vacancy and there are 7 OC General Vacancies and 4 OC-W vacancies. As per the marks secured by the candidates, the last cut of marks for OC vacancies is 82 marks. Ms. Banavath Rangamma H.T.NO. 210821 belonging to ST category secured 83 marks and stood at Rank No. 5. She was selected against OC General vacancy. Ms. Kemsaram Revathi, H.T. NO. 228127 belonging to ST

category secured 81 marks and stood at Rank No. 22. She was selected against ST-General vacancy. Since the Petitioner secured less than 81 marks, he could not be accommodated within the vacancies. The ST-W vacancy was filled up with Ms. Ketavath Padma, H.T. NO. 219590, where she secured 79 marks and stood at Rank No. 34. Thus, there are no vacancies available in the Petitioner's category."

C) The counter affidavit filed by the 2nd respondent in I.A.No.3 of 2020 in W.P.no.3674 of 2020, in particular, paras 7 to 11, read as under:

"7. It is submitted that the Judgment of the Hon'ble Supreme Court in Rakesh Kumar Daria Vs. Rajasthan Public Service Commission (AIR 2007 SC 3127= 2007 (8) SCC 785), was considering the Rule 9 (3) of Rajasthan Judicial Service Rules, 1955, wherein it was specified that the reservation for women candidates shall be treated as horizontal reservation. The Judgment of the Hon'ble Supreme Court in Public Service Commission, Uttaranchal Vs. Mamata Bisht and others 2010 (12) SCC 204 followed the Judgment of Rajesh Kumar Daria. Whereas, in the present case, the reservation of women candidate is treated as vertical, in terms of the amendments made by the State Government to Rule 22 of Telangana State and Subordinate Service Rules, 1996 which is squarely applicable for recruitment in TSSPDCL

in terms of Regulation 22 of the Service Regulations Part-II of the APSEB Regulations as adopted by TSSPDCL. Both the Judgments referred to by the Writ Petitioners have no application in view of the specific clause prescribed in the Service Regulations for providing reservation to women candidates.

8. It is submitted that Para No. 5 of the Notification specifies the important provisions governing the recruitment provisions. Para No. V (3) specifies the various conditions/criteria prescribed shall be governed by the Rules and Regulations/orders existing in the Southern Power Distribution Company of Telangana Limited (in short TSSPDCL). Clause 8 of Para No. V further specifies that the percentage of the reservation applicable for following the Rule of Reservation, wherein it specifies that for women 33 1/3% reservation is applicable as per Rules. Regulation 22 of the APSEB Service Regulations Part-II as adopted by the TSSPDCL specifies as follows:

"22. Reservation of appointments by direct recruitment, by promotion and recruitment by transfer:- Where Special regulations lay down that the Principle of reservation of appointments shall apply to appointments by direct recruitment to any service, class or category or by promotion from a lower category in the same service or by transfer from another service, such appointments shall be made on the basis of regulations for reservation of appointments by direct recruitment or by promotion and/or transfer made by the State Government in respect of their own service (vide Schedule-III)."

Rule 22-A R/w. Annexure-III to Service Regulations Part-II specifies that in the matter of direct recruitment to the post of for which women and men are equally suited, other things being equal, preference shall be given to the women to the extent of 33.33% of the posts in each category of OC, BC, SC & ST quota. Schedule-III to Service Regulations Part-II specifies that the appointments under the regulations shall be made in the order of rotation specified therein in every cycle of 100 vacancies, wherein specific roster points are allocated to women category.

9. It is submitted that the APTRANSCO issued T.O.O. Ms. No. 268, dated 3-3-2001 providing the guidelines to be followed in respect of 33 1/3% reservation of posts and implementation of principle of carry forward system for women in the matter of direct recruitment. As per Para No. 6 of the said T.O.O. Ms. No. 268, dated 3-3-2001, it was specifically provided that the claims of women shall be considered for the remaining appointments which shall be filled on the basis of open competition, the number of appointments reserved for that category shall in no way be affected during the period of reservation for that category is in force.

10. It is submitted that subsequently, the State Government issued G.O. Ms. No. 107, General Administration (Ser.D) Department, dated 27-7-2018 making necessary amendments to Telangana State and

Subordinate Service Rules, 1996. Proviso to Rule 22 (2) (d) of the Telangana State and Subordinate Service Rules, 1996 was substituted specifying that the claims of the members of women shall also be considered for the remaining appointments which shall be filled on the basis of the open competition, the number of appointments reserved for that category shall in no way be affected during the period the reservation for that category is in force. The Rules applicable in the State Government are applicable to the TSSPDCL in terms of Rule 22 of the APSEB Service Regulations as adopted by the TSSPDCL. In view of the above amendments, while earmarking the roster points specifically reserved for women, the other roster points where women are equally eligible on the basis of open competition along with Men are considered for appointment. **Thus, the Rules clearly provide that the women candidates are eligible to be considered in 33 1/3% posts specifically earmarked for them and also in other open competition vacancies. The amendment made by the State Government clearly stipulates that the Rule of Reservation shall be treated as vertical reservation for direct recruitment to the posts for which women and men are equally suited and there shall be a reservation to the extent of 33 1/3% posts in each category of open competition, BC, SC, ST, PHC and Ex-service men quota, whereas in respect of sports quota vacancies, G.O. Ms. No.107, dated 27-7-2018 clearly specifies that they shall be treated as Horizontal reservation.**

Therefore, the provisions of Rules of Reservation to the extent applicable for recruitment to the post of Junior Personnel Officer as applicable to the recruitment in the State Government service are followed without any deviation.

10.1 Further, Rule 22-A (3) of the Telangana State and Subordinate Service Rules, 1996 specifies that in the matter of direct recruitment, posts which are reserved for Women exclusively, shall be filled by women only.

11. It is submitted that there is no challenge to the Rules specified in Rule 22 of the APSEB Service Regulations Part-II or the Rules made by the State Government under Rule 22 and Rule 22-A of the Telangana State and Subordinate Service Rules, 1996 in the present Writ Petition. Therefore, the relief sought for in the present Writ Petition is misconceived.

D) The counter affidavit filed by the 4th respondent in I.A.No.1 of 2022 in W.P.No.3674 of 2020, in particular, paras 8 and 9, read as under:

"8. While so certain dispute arose on the correctness of certain questions and the key thereon. A batch of writ petition Nos. 11810 and 18335/2020 and batch were filed challenging the said key. This Hon'ble court vide order dated 3-3-21 was pleased to allow the said batch and directed the 2nd Respondent herein to refer the said key to an expert

committee for re-valuation. Pursuant to the said order it was referred to an Expert committee, and the expert committee opined that the answer given in the key was incorrect and based on the said committee recommendation, a Revised merit list was published by the 2nd Respondent by adding one mark to all those who have not answered the question as per the key. As against that order Writ Appeal Nos. 126/21, 133/21 and 406/21 were filed which was dismissed by order dated 29-10-21. In that Writ Appeals Sri Lallu Prasad, the writ petitioner herein, also filed implead application which was also dismissed. As against that SLP Nos.20111-20113/21 were also dismissed by the Honble Supreme court vide order dated 13-12-21. Thus, that order has attained the finality. In view of the same, a revised merit list was published. In the said revised merit list, the marks of this petitioner was given as 80 and her rank was fixed at 29. The following table would clearly show the position of the petitioner vis-à-vis others in ST Category:

Revised Merit List

Name	Date of birth	Marks	Rank
Banavath Rangamma (W)	9-6-95	83	9
Kemsaram Revathi (W)	7-6-98	81	24
Jemla Charitha (R-4)(W)	11-5-96	80	29
P Lallu Prasad (Petitioner)	16-5-96	80	30
Khethavat Padma (R-3)(W)	20-6-91	79	40

9. Based upon this revised merit list, changes took place in the final selections. In the earlier pre-revised merit list one Miss Khethavat Padma was placed at rank No.34 with marks secured as 79. Now due to the revised merit list the said Miss Khethavat Padma was pushed to Rank No.40 and her marks are 79 only. Due to this change, this petitioner has become eligible and entitled to be appointed to the said post."

E) Reply affidavit and additional reply affidavit had been filed by the learned counsel for the petitioner contending that petitioner is entitled for the relief as prayed for by virtue of the Judgment reported in (2007) 8 SCC 785 in "Rajesh Kumar Daria v. Rajasthan Public Service Commission and others".

F) List of the dates and events filed by respondent No.2 vide memo dated 19.10.2022, is extracted hereunder:

Sl. No.	Date	Events
1.	28.09.2019	Notification No.2/2019 issued by TSSPDCL for 25 posts of Junior Personnel Officer (JPO)
2.	15.12.2019	Written Examination was conducted
3.	17.01.2020	Results of written examination was declared. Petitioner secured 80 marks. ST candidate.
4.	03.02.2020	Notification calling provisionally selected candidates verification of certificates on 17.02.2020.
5.	03.03.2020	Hon'ble High Court granted interim direction not

		to fill up one post of ST (W) vacancy of JPO.
6.	03.03.2021	WP No.11810/2020 and WP No.18335/2020 were allowed directing to refer the key of certain questions to an expert committee for re-evaluation.
7.	29.10.2021	WA No.126/2021, challenging the orders dated 03.03.2021, was dismissed.
8.		Expert committee submitted a report recommending for change of final key with regard to Q.No.58 of Set-B.
9.		<p>As per the report of the expert committee, the selection list was revised.</p> <p>There is no change in the marks of the Writ Petitioner.</p> <p>Respondent No.4 secured 80 marks and belongs to ST category.</p> <p>Wherever two candidates secured same marks, candidate older in age will be given preference. Writ Petitioners Date of Birth is 16.05.1996</p> <p>Respondent No.4 Date of Birth is 11.05.1996</p> <p>Therefore, Petitioner is ranked at 30 and Respondent No.4 is at Rank-29.</p>
10.	03.03.2020	<p>As per the notification 2 ST vacancies were notified 1 ST (G) and 1 ST (W).</p> <p>An ST candidate who secured 83 marks ranked at 9 was selected against OC (W) vacancy.</p> <p>Candidate at Sl.No.24, secured 81 marks, ranked 24 was selected against ST (4) vacancy.</p> <p>1 ST (W) vacancy is available which will be allocable to Respondent No.4, ranked at Sl.No.29 being at higher rank than the Writ Petitioner who is at Sl.No.30.</p>

4. The case of the petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition is as under:

i) It is the case of the petitioner that, the petitioner has completed B.Sc., Graduation and belongs to the Schedule Tribe. The 2nd respondent was issued a Notification No.2/2019, dated 28.09.2019 for the post of Junior Personnel Officers and the Qualification for the said post must be that the candidate shall hold, any Degree of B.A./B.Com./B.Sc., from a recognized University. The last date of receipt of the Application was on 22.10.2019 and the examination date for the same was on 15.12.2019. Likewise, the petitioner was eligible for the said exam and had applied for the same.

ii) Subsequently, the petitioner was allotted Hall Ticket vide Hall Ticket No. 220594 along with the Candidate ID vide No.71209134. The petitioner here had appeared in written examination on 15.12.2019 and obtained 80 marks in written examination and was allotted the Rank No. 26 by the respondents. However, the respondents have not displayed the merit list in the

website and without following the due procedure of law had issued Certificate verification proceedings on 03.02.2020. While the petitioner had merit and falls under the Schedule Tribe Reservation, the respondents had not issued call letter to the petitioner for certificates verification.

iii) Aggrieved by the same, on 13.02.2020 the petitioner had filed a representation before the 2nd respondent requesting them to display the merit list in transparent manner, but till date the respondent had not displayed any merit list in transparent manner and thereafter, the certificate verification was conducted on 17.02.2020. The respondents without following the due procedure of law initiated the process to appoint the Junior Personnel Officers in pursuance of the above said Notification which is illegal, arbitrary, discriminatory and violative of Articles 14, 16, 19 and 21 of the Constitution of India. Hence this Writ Petition.

5. Learned counsel appearing on behalf of the petitioner, mainly put forth the submissions as under:

a) The petitioner appeared for recruitment of Junior Personnel Officer written examination on 15.12.2019 as per notification dated 28.09.2019 and secured 80 marks and rank 26. The

respondents being state authority are having ample responsibility in recruiting Junior Personnel Officer and selection must be made in transparent and fair manner, in compliance with Articles 14, 16 and 21 of the Constitution of India and the same was upheld by the Apex Court in catena of judgments, but herein the respondent did not display the merit list.

b) The respondents have to be called for an interview in horizontal reservation, as per the judgment of the Apex Court **in Rajesh Kumar Daria v Rajasthan Public Service Commission and others, reported in 2007(8) SCC 785** and the same was followed by the Division Bench of the High Court in **K.Venkatesh and another v Government of Andhra Pradesh, reported in 2009 Law suit (A) 371** and hence, the same is not valid in the eye of law and is amounts to non application of law. The respondents did not display the merit list.

c) Out of 25 members of selection list, 15 members women were selected and out of these 15 women members, 3 ST women were selected and 1st ST women secured 83 marks and secured 5th rank got post in open category on her own merit, 2nd ST women member secured 81 marks and secured 22nd rank General and the 3rd ST women who secured 79 marks and got rank 34th shall not be included in the selection list as she got marks and rank less than the petitioner marks and rank. The reservation quota must be filled up horizontal,

but not vertical as per law. However, the respondents followed vertical reservation.

d) First (1st) ST women got post on her own merit in open category and 2nd women got 81 marks, secured rank 22 and got post in ST General and next automatically the petitioner, who got 80 marks and got 26th rank in the selection list has to get the post, but the 3rd ST women, who got 79 marks and 34th rank was included in the selection list. The women reservation shall not exceed 33 1/3rd in direct recruitment, but the respondents selected more than 60% women, which is not valid in law.

e) **Therefore, the writ petition is liable to be allowed as prayed for.**

6. Learned counsel appearing on behalf of the 2nd respondent, mainly put forth the submissions as under:

a) As per notification dated 28.09.2019 two ST vacancies were notified. Out of which one for ST(Gen) and one for ST (W). In the notification, it was clearly prescribed that the recruitment will be processed as per the notification and rules and regulations/orders of TSSPDCL existing as on date.

b) The petitioner filed the present writ petition at the stage of calling provisionally selected candidates for verification of certificates.

c) As per the orders dated 03.03.2021 in W.P.Nos. 11810 and 18335 of 2020 the respondents referred the key answers and correctness of certain questions to the expert committee for evaluation. The expert committee submitted report recommending for change of final key with regard to the Question No.58 and as such merit list was revised and there is no change in the marks secured by the writ petition. However, his rank was assigned at 30.

d) One Smt. Khetavath Padma belonging to ST community also secured 80 marks. In terms of para No.VIII (ii) of the Notification, wherever the candidates secured same marks, the candidate older in age, will be ranked high. The petitioner was borne on 16.05.1996 and Smt. K.Padma was born on 11.05.1996. Therefore, Smt. K.Padma was selected.

e) After revision of selection list, out of 25 posts of Junior Personnel Officer, 23 posts were filled in November, 2021, one post was filled in the month of June, 2022 and remaining one post was not filled up in pursuance of the interim orders of this Court. As per Rule 22 of the State and Subordinate Service Rules for Special Representation (Reservation), the women candidates are eligible to be considered for remaining appointment on the basis of open competition which would have no effect to the number of appointments reserved for that category.

f) The AP Transco also issued T.O.O. Ms.No.268, dated 03.03.2001 providing guidelines to be followed in respect of

33 1/3% reservation in the matter of direct recruitment. Para 6 of the said T.O.O. Ms.No.268 clearly provides that the claims of women shall be considered for remaining appointments which shall be filled on the basis of the open competition, the number of appointments reserved for that category, shall in no way be effected during the period of reservation for that category is in force. The said T.O.O. is also made applicable to the TSSPDCL.

g) The judgment of the Apex Court in **Rajesh Kumar Dana v Rajasthan Public Service Commission reported in 2007(8) SCC 785**, dealt with the specific rule, wherein the rule provided that the reservation for women would be treated as horizontal reservation. Therefore, the said judgment has no application to the present facts of the case. **Therefore, the writ petition is liable to be dismissed.**

7. **Notification No.02/2019 dated 28.09.2019, in particular Para No-V and Para No-VIII are extracted hereunder :**

a) **Para-No.V: Important Provisions Governing the Recruitment Process of the Notification, read as under:**

1. **Vacancies :** The Recruitment will be made to the vacancies notified subject to variation and orders in force.

2. **Recruitment** : The Recruitment will be processed as per this notification and also as per the rules and Regulations/Orders of TSSPDCL existing as on date.
3. **Rules** : All are informed that various conditions and criterion prescribed herein are governed by the Rules and Regulations/Orders existing in TSSPDCL.
4. **Transparency in Recruitment**: The whole Recruitment and selection process is carried out with utmost secrecy and confidentially so as to ensure that the principle of merit is scrupulously followed. A candidate shall be disqualified for appointment, if he/she himself/herself or through relations or friends or any others has canvassed or endeavoured to enlist for his/her candidature, extraneous support, whether from official or non-official sources for appointment to this service.
5. **For 95% of the posts, preference shall be given to the Discom Candidates**
6. **Employed** : The Persons already in Government service/Power Utilities/ Autonomous bodies / Govt. Aided Institutions etc., whether in permanent or temporary capacity or as work charged employees are required to inform in writing to the Head of Office/Department as the case may be and required to submit "No Objection" from the concerned Head of Office/Department to apply for this recruitment.
7. **Caste & Community**: The Community Certificate issued by the competent authority (obtained from the Government

of Telangana) should be submitted at appropriate time in respect of SC & ST candidates. In respect of candidates belonging to Backward classes are required to produce Community Certificate (BC-A, BC-B, BC-C, BC-D & BC-E) from competent authority i.e., from Tahsildar in the State of Telangana not below the rank of Deputy Tahsildar. **No person who professes a religion different from Hinduism shall be deemed a member of Scheduled Caste.**

8. Reservations: The following percentages of reservations are applicable subject to the orders of the Government from time to time.

BC - 25%+ 4% Reservation to BC-E group will be subject to the adjudication of the litigation before the Hon'ble Courts including final orders in Civil Appeal No. (a) 2628-2637 of 2010 in SLP.No.7388-97 of 2010 dated 25.03.2010 and orders from the Government.

SC - 15%,

ST- 6%,

PH-3% - Reservation will be applicable for candidates with requisite percentages specified by the Government/existing Rules of TSSPDCL

Women 33 1/3% reservation is applicable as per rules.

9. Creamy Layer: In terms of G.O.Ms.No.8, Backward Classes Welfare (OP) Department, dt. 13.11.2014, Govt. of Telangana, as adopted by TSTRANSCO vide T.O.O.(CGM-HRD-Per) Ms.No.188, dt.22.09.2015 and subsequently

adopted by TSSPDCL, the candidates claiming reservation belonging to Backward classes have to produce a certificate regarding their exclusion from the Creamy Layer from the Competent Authority (Tahsildar). The certificate excluding from the Creamy Layer has to be produced at an appropriate time. B.C. candidates whose parents income is less than limit prescribed by the Government of Telangana come under non creamy layer. In case of failure to produce the same on the day of verification of certificates, the candidature will be rejected without further correspondence.

10. The candidates who have obtained Degree through Open Universities are required to have recognition by the University Grants Commission / DEC as the case may be. Unless such Degrees have been recognized by the relevant statutory authority, they will not be accepted for purpose of educational qualification. The decision of the management will be final.”

b) Para-VIII: of the Notification which deals with procedure for selection is extracted hereunder:

- i) The selection of candidates for appointment will be made 100% on Written examination only.
- ii) In the event of tie in written exam marks, candidate whose age is higher will be ranked high. In the event of tie thereon,

the marks obtained in Part-A will form basis for deciding the rank.

iii) Only those candidates who qualify in the written examination by being ranked high, community wise will be called for verification of Original Certificates in 1:1 ratio.

iv) The minimum qualifying marks in the written examination for the above selection process shall be as follows:

OC	-	40%
BC	-	35%
SC/ST-		30%
PH	-	30%

Note: Mere securing minimum qualifying marks doesn't vest any right to a candidate for being called for verification of original certificates or for appointment.

v) The selection list will be drawn into two parts. The first part will comprise 5% of the posts consisting of combined merit list and the remaining second part will comprise the balance 95% of the posts consisting of candidates belonging to the TSSPDCL Discom jurisdiction only and the posts will be filled following the existing rules and rule of reservation. The candidates will be selected and allotted to various places in TSSPDCL jurisdiction.

DISQUALIFICATION

The whole recruitment and selection process is carried out with utmost secrecy and confidentiality, so as to ensure that

the principle of merit is scrupulously followed. A candidate shall be disqualified for appointment, if he/she himself/herself or through relations or friends or any others has canvassed or endeavored to enlist for his candidature, extraneous support, whether from official or non-official sources for appointment to this service. Conviction in criminal case involving moral turpitude declared insolvent.

TERMS AND CONDITIONS OF SERVICE:

1. Scale of Pay: Rs. 34925-1120-39405-1355-46180-1640-54380-1945- 64105-2315-66420

2. Training cum Probation: The candidates appointed to the post shall be placed on training-cum-probation for a period of 2 years. At the time of joining, they shall have to deposit their original certificates such as Date of Birth (SSC), Degree, Caste and Study / Residence Certificates etc. During the training cum probation period, they will be paid initial scale of pay of Junior Personnel Officer with usual allowances admissible at the place of posting.

3. Place of posting: The candidates appointed shall be required to work wherever posted in the jurisdiction of TSSPDCL for a minimum period of 3 years.

4. The candidate will be governed by the rules and regulations applicable or as framed by the TSSPDCL and as amended from time to time.

5. Execution of Service Bond: At the time of joining, the candidate shall have to execute a Bond to serve TSSPDCL for a minimum period of FIVE (5) years in addition to two year training cum probation period. The candidate who leaves the company during the training cum probation period shall refund the emoluments received by him/her during said period plus Rs. 30,000/- (Rupees Thirty thousand only) by way of liquidated damages. The candidate who leaves the

Company without serving a minimum period of five years after completion of training cum probation period, shall pay to the Company a sum of Rs. 50,000/- (Rupees Fifty thousand only) by way of liquidated damages.

DISCUSSION AND CONCLUSION:

8. On perusal of the record it is evident that the respondent No.2 – TSSPDCL issued notification No.2/2019 dated 28.09.2019 for Direct Recruitment to 25 posts of Junior Personnel Officers. As per the Notification two (02) ST Vacancies were notified for the post of Junior Personnel officer. Out of which, one for ST (General) and One for ST (Women).

9. **A bare perusal of Para No.V of the Notification No.2/2019 dated 28.09.2019 (referred to and extracted above), clearly indicates that the Recruitment will be processed as per the Notification and also as per the Rules and Regulations/Orders of TSSPDCL existing as on date. Clause (viii) of Para No.5 clearly specifies that the percentage of reservation for 'women' is 33 1/3 % as per rules.**

10. Para No.VIII of the Notification No.2/2019 dated 28.09.2019 (referred to and extracted above) prescribes the

procedure for selection, wherein it is specified that the selection of the candidates for appointment will be made 100% on written examination only. Clause (ii) of Para No.VIII above, clearly indicates that in the event of tie in written exam marks, candidate whose age is higher will rank high and only those candidates who qualify in the written examination by being ranked high, community wise will be called for verification of original certificates in 1:1 ratio.

11. Further, the record also indicates that written examination was conducted on 15.12.2019 and the results of the written examination were declared on 17.01.2020, the writ petitioner a ST Category candidate secured 80 marks and was ranked 29. Notification dated 03.02.2020 was issued by the 2nd respondent calling provisionally selected candidate for verification of certificate scheduled on 17.02.2020, at that stage the present writ petition is filed, initially with a prayer declaring the action of the respondent in not declaring the merit list and not calling to an interview and not appointing the petitioner for Junior Personnel Officer, in pursuance of the Notification No.2/2019 dated

28.09.2019 as illegal and arbitrary and consequently to direct the 2nd respondent to display the merit list of the candidates who participated in an Examination on 15.12.2019 and to send the interview letter and to appoint the petitioner for the post of Junior Personnel Officer in pursuance of the Notification No.2 of 2019 dated 28.09.2019. Subsequently, however prayer had been amended as extracted above, in pursuance to orders of this Court dated 21.12.2020 in I.A.No.3 of 2020.

12. It is pertinent to note that writ petition No.11810 of 2020 and 18335 of 2020 were filed by few others challenging the Key Answers and correctness of certain questions and the said writ petitions were disposed of vide orders dated 03.03.2021 directing the 2nd respondent herein as under:

“Therefore, these writ petitions can be disposed of directing the respondents to refer the disputed Question No.58 to an Expert Committee within a reasonable period, preferably within a period of four weeks from the date of receipt of a copy of this order. Upon receiving Expert Committee opinion, the

respondents should act accordingly, in view of the law laid down by the Hon'ble Supreme Court in ARUN KUMAR's case (supra)."

It is also relevant to note that the above referred matter was carried in Appeal vide Writ Appeal Nos.126, 133 and 406 of 2021 before the Division Bench which dismissed the said appeal vide order dated 29.10.2021. The petitioner also had filed a Writ Appeal in the said Appeal and the Apex Court confirmed the same, and SLP 20111-20113/2021 was dismissed on 13.12.2021.

13. This Court opines that in view of the same, the revised merit list has become final and cannot be altered under any circumstances, as otherwise it would be contrary to the orders of the Supreme Court, in view of the fact as borne on record that the positive direction given by the learned Single Judge vide orders dated 3.3.2021 in Writ Petition No.11810 and 18335 of 2023 had attained finality.

14. A bare perusal of Regulation 22 of A.P.S.E.B. Service Regulations Para II as adopted by the TSSPDCL specifies as follows:

“22. Reservation of appointments by direct recruitment, by promotion and recruitment by transfer:- Where Special regulations lay down that the Principle of reservation of appointments shall apply to appointments by direct recruitment to any service, class or category or by promotion from a lower category in the same service or by transfer from another service, such appointments shall be made on the basis of regulations for reservation of appointments by direct recruitment or by promotion and/or transfer made by the State Government in respect of their own service (vide Schedule-III).”

15. A bare perusal of the above referred regulations as made by the State Government clearly indicates that the regulations as made by the State Government for Reservation of appointments by Direct Recruitment or by Promotion would be applicable.

16. The Proviso to Clause (d) of Rule 22 of the Rules, reads as under:

“(d) In the case of appointments to the posts to which the principle of reservation of appointment is applied, out of fifty, as the case may be, forty five appointments to be made on the basis of open competition, two appointments shall be reserved for direct recruitment of meritorious sports men.

Provided that the claims of members of the Scheduled Castes, Schedules Tribes, Backward Classes, Women and the persons with Disabilities or the Ex-servicemen as the case may be, shall also be considered for the remaining appointments which shall be filled on the basis of open competition, the number of appointments reserved for that category shall in no way be affected during the period the reservation for that category is in force."

17. A bare perusal of the proviso to Clause (d) of Rule 22 of the Rules, clearly indicate that Rule 22 of the State and Subordinate Service Rules provides for special representation (Reservation), hence it is clear that women candidates are eligible to be considered for remaining appointments on the basis of Open competition which would have no affect to the number of appointments reserved for that category.

18. T.O.O.Ms.No.268 dated 03.03.2021 providing guidelines to be followed in respect of 33 1/3% of reservation in the matter of Direct Recruitment and Para No.VI of said T.O.O. Ms.No.268 clearly provides that the claims of women shall be considered for remaining appointments which shall be

filled on the basis of the open competition, the number of appointments reserved for that category, who shall in no way be effected during the period of reservation for that category is in force, the said T.O.O. Ms.No.268 is also made applicable to the 2nd respondent.

19. A bare perusal of the averments made in the counter affidavit filed by the 2nd respondent and the affidavit filed by respondent No.2 on 07.04.2022 in I.A.No.2 of 2022 in W.P.No.3674 of 2020 (referred to and extracted above) clearly indicates that rules clearly provide that women candidates are eligible to be considered in 33 1/3% posts specifically earmarked for them and also in other open competition vacancies. The amendment made by the State Government clearly stipulates that the rule of reservation shall be treated as vertical reservation for Direct Recruitment to the posts for which women and men are equally suited and there shall be a reservation to the extent of 33 1/3% posts in each category of open competition, BC, SC, ST, PHC and Ex-servicemen quota whereas in respect of Sports Quota vacancies, G.O.Ms.No.107 dated 27.07.2018

clearly specified that they shall be treated at horizontal reservation.

20. Material on record indicates that the provisions of Rules of Reservation to the extent applicable for the Recruitment to the post of Junior Personnel Officer as applicable to the recruitment in the State Government service are followed without any deviation and further as per rule 22-A(3) of the Telangana State and Subordinate Service Rules, 1996 specifies that in the matter of direct recruitment, posts which are reserved for women exclusively shall be filled by women only.

21. On perusal of the averments made in the counter affidavit filed by the 2nd respondent in particular, para No.5 referred to and extracted above it is evident that writ petitioner secured 80 Marks and petitioner belongs to ST General Category. One Ms.Banavath Rangamma H.T.No.210821 belonging to ST Category secured 83 Marks and stood at Rank No.5 and she was selected against OC General vacancy, since the petitioner secured less than 81

Marks petitioner could not be accommodated within the vacancies.

22. In view of the fact that there is no challenge to the Rules specified in Rule 22 of the APSEB Service Regulations Part-II or the Rules made by the State Government under Rule 22 and Rule 22-A of the Telangana State and Subordinate Service Rules 1996 in the present writ petition, this Court opines that the relief sought for in the present writ petition cannot be granted.

23. This Court opines that the pleas put forth by the petitioner and the Judgments relied upon in support of the case of the petitioner, do not apply to the facts of the present case.

24. Taking into consideration:

(a) The averments made in the counter affidavit filed by the 2nd respondent in the main writ petition and also in I.A.No.3 of 2020 in W.P.No.3674 of 2020 and,

(b) The averments made in the counter affidavit filed by the 2nd respondent in I.A.No.3 of 2020 in W.P.No.3674 of 2020 and,

(c) The averments made in the counter affidavit filed by the 4th respondent in I.A.No.1 of 2022 in W.P.No.3674 of 2020,

(d) The orders dated 03.03.2021 passed in W.P.No.11810 of 2020 and 18335 of 2020 which attained finality,

This Court opines that the Writ Petition filed by the petitioner is devoid of merits hence dismissed, and accordingly the interim orders granted by this Court on 03.03.2020 stand vacated. However there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

MRS JUSTICE SUREPALLI NANDA

Date: 03.06.2024

Note : L.R. Copy to be marked.
B/o. *Yvkr*