

REPORTABLE

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (CIVIL) D.No.28852 of 2020

Y. Sai Satya Prasad & Ors.

...Petitioner(s)

Versus

D. Prabhakara Rao & Ors.

...Respondent(s)

J U D G M E N T

M. R. Shah, J.

1.0. Present contempt petition has been preferred by the 84 petitioners – erstwhile employees of the Andhra Pradesh Power Utilities alleging deliberate and willful disobedience of the judgment and order passed by this Court dated 7.12.2020 in MA No.1270 of 2020 in Civil Appeal No.11435 of 2018 and other allied Miscellaneous Applications in the case of Telangana

Power Generation Corporation Limited vs. Andhra Pradesh Power Generation Corporation Limited reported in 2020 SCC Online SC 995 non-compliance alleged against the Telangana Power Utilities (hereinafter referred to as the “TS Power Utilities”).

2.0. Shri Huzefa Aziz Ahmadi learned Senior Advocate has appeared on behalf of the applicants, Shri Ranjit Kumar and Shri V Giri, learned Senior Advocates have appeared on behalf of alleged contemnors – Telangana Power Utilities and Shri Niraj Kishan Kaul, learned Senior Advocate has appeared on behalf of the respondent- Andhra Pradesh Power Utilities.

3.0. Shri Ahmadi, learned Senior Advocate appearing on behalf of the applicants has vehemently submitted that by detailed judgment and orders dated 20.06.2020 and 7.12.2020 this Hon’ble Court accepted the report submitted by the One Man Committee of Hon’ble Mr. Justice D M Dharmadhikari. It is submitted that by an order dated 7.12.2020 this Court had accepted the Concluding Report of the One Man

Committee and has directed the respondents to implement and absorb all the employees allocated to TS Power Utilities. However, TS Power Utilities have arbitrarily and unilaterally left out the petitioners contrary to the judgment dated 7.12.2020.

3.1. It is submitted by Shri Ahmadi that a perusal of the judgment and order dated 7.12.2020 passed by this Court would show that the objections of TS Power Utilities, with regard to the excess allocation and also with regard to the reciprocity, in respect of 655 numbers, were categorically rejected and the final list appended to the Concluding Report has been expressly affirmed. It is submitted that as such there was an express direction to the power utilities of both the States and all concerned to implement the report of One Man Committee.

3.2. It is further submitted by Shri Ahmadi learned Senior Advocate that a perusal of the Concluding Report of the One Man Committee makes it explicit that both the Power Utilities have to absorb 655 employees each as

per Concluding Report dated 20.06.2020. It is submitted that this figure of 655 has also been reiterated by this Court in the subsequent judgment and order dated 7.12.2020. It is submitted that in the operative directions in the Concluding Report, it has expressly been stated that allocation made is final and binding both on the employer and employees; and failure to implement the same may be reported to the Supreme Court for remedial or punitive action. It is submitted that the only exception carved out in the said directions was with regard to those employees who have attained the age of 58 years in the year 2020, who will be kept out of the allocation process. It is submitted that none of the petitioners have attained the age of 58 years in the year 2020.

3.3. It is submitted that all the 84 petitioners figured in the final list prepared by the One Man Committee. The names of the petitioners were duly mentioned in the said list, which was prepared utilities wise by the One Man Committee. It is submitted that as per the final

list 28 petitioners had to be absorbed in TS Genco, 35 members had to be absorbed in TS Transco, similarly 21 petitioners had to be absorbed in TS Discoms.

3.4. It is submitted that pursuant to the passing of the Concluding Report dated 20.06.2020 by the One Man Committee, Andhra Pradesh Power Utilities have implemented the directions in toto, as per the final list annexed to the Concluding Report dated 20.06.2020 prepared by the One Man Committee.

3.5. It is submitted that on one hand, the Andhra Pradesh Power Utilities, while implementing the directions have relived the applicants, however TS Power Utilities have not absorbed the petitioners, which action is in teeth of directions issued by this Court accepting One Man Committee report of Hon'ble Mr. Justice D M Dharmadhikari.

3.6. It is submitted that the petitioners herein ought not have been dropped by TS Power Utilities in terms of the judgment dated 7.12.2020 because; (I) apparently

the names of the petitioners are part of the Concluding Report dated 20.06.2020 and allocation list of Direction Nos.II and III ; (II) none of the petitioners had attained the age of 58 years in the year 2020 and thus are outside the scope and ambit of Direction No.I; (III) the relieving orders issued by the Andhra Pradesh Utilities to petitioners upon being allocated to TS Utilities dated 20.06.2020 in terms of Concluding Report dated 20.06.2020 are upheld and said allocation has become final in terms of the judgment dated 7.12.2020; (IV) That TS Power Utilities have truncated the entire allocation by indulging into re-allocation of retired employees. The lists annexed to office order have two lists, one of (Employee absorbed), second list comprises of those employees who were allocated by One Man Committee to corresponding Andhra Pradesh Power Utilities and they got expired or have attained the age of 58 years. It is submitted that said second list is appended only to cause confusion and none of the employees in the second list are part of the final lists of TS Genco, TS Transco, TSSPDCL or

TSNPDCL as per the Concluding Report dated 20.06.2020 r/w compliance report dated 26.06.2020.

3.7. It is further submitted by Shri Ahmadi learned Senior Advocate that despite express directions from this Court read with directions of Concluding Report dated 20.06.2020, the respondent contemnors - TS Power Utilities are in willful disobedience in not having implemented the allocation made by the One Man Committee as per the final list, leaving the petitioners, who were to be absorbed in the power utilities of the Telangana State high and dry. It is submitted that non-compliance is borne out by the following:

- (I). That the office order dated 17.12.2020 issued by the TS Genco which is contrary to the report of the One Man Committee accepted by this Court;
 - A. that as per report of the One Man Committee, TS Genco was to absorb 300 employees in total, from AP Genco;
 - B. that since TS Genco has already admitted 26 employees in terms of Supplementary Report dated

11.03.2020, the total employees to be admitted by TS Genco ought to be 300 as per the judgment dated 7.12.2020;

- C. that however, TS Genco has reduced this number of 226 employees and resultantly 28 petitioners are dropped their allocation to TS Genco held to be absolute and all 28 petitioners have not attained the age of 58 years and thus are outside the purview of direction. It is submitted that this is contrary to the judgment of this Court, the direction no. I stipulates to exclude retired persons from TS Genco allocation list annexed to Concluding Report and none of the petitioners are retired in terms of Direction No.I;
- D. that therefore, TS Genco have devised the office order to circumvent the orders of this Court with jugglery of the numbers and truncating the allocation lists and contemnors are guilty of dropping 28 petitioners, as a result of willful disobedience of the order of this Court;
- E. that the list of employees absorbed does not include the 28 petitioners who were already included in the final list of the One Man Committee. It is submitted

that the said lists annexed to office order are prepared to confuse the tally of allocation lists and to suppress the fact that TS Genco has absorbed only 226 (out of 300), a list of 252(226 + 26) has been appended to office order to mislead this Court by repeating the same 26 employees who were already admitted on 11.03.2020 vide Supplementary Report of One Man Committee. It is submitted that further a list of 48 employees is appended, these are employees who were never part of 300 employees allocated to TS Genco and the list is fraudulently appended, just to display and match the numbers.

3.8. It is further submitted that similarly office order dated 18.12.2020 issued by the TS Transco is nothing but a willful disobedience of the judgment and order passed by this Court dated 20.06.2020 and 7.12.2020 accepting the report of the One Man Committee. It is submitted that as per the Concluding Report, TS Transco was to absorb 173 employees from AP Transco. It is submitted that since TS Transco had

already admitted 30 employees in terms of Supplementary Report dated 11.03.2020, the total employees to be admitted by TS Transco ought to be as per the judgment dated 7.12.2020. It is submitted that however, TS Transco has reduced this number to 104 employees and resultantly 35 petitioners are dropped despite their allocation to TS Transco held to be absolute and all 35 petitioners have not attained the age of 58 years and thus are outside the purview of Direction I. It is submitted that this is contrary to the judgment of this Court, the Direction No.I only stipulates to exclude Retired persons from TS Transco list annexed to Concluding Report and none of the petitioners are retired in terms of Direction No. I. It is submitted that TS Transco issued office order audaciously ignoring the allocation made under Direction No.II & III as approved by this Court. It is submitted that therefore, TS Transco have devised the office order to circumvent the orders of this Court with jugglery of the numbers and truncating the allocation lists and contemnors are guilty of dropping 35

petitioners as a result of willful disobedience of the order of this Court. It is submitted that the list of employees absorbed does not include the 35 petitioners who were already included in the final list of the One Man Committee. The said lists annexed to office order are prepared to confuse the tally of allocation lists and suppress the fact that TS Transco has absorbed only 104 (out of (173 +8), a list of 134 (104 +30) has been appended to office order to mislead this Court by repeating the same 30 employees who were already admitted on 11.03.2020 vide Supplementary Report of One Man Committee. It is further submitted that the employees who were never part of 173 employees allocated just to TS Transco and the list is fraudulently appended to display and match the number.

3.9. It is further submitted that even the office order dated 18.12.2020 issued by the TSNPDCL would also tantamount to contempt and willful disobedience of the judgment and order passed by this Court. It is

submitted that as per the Concluding Report, TSSPDCL was to absorb 113 employees from APSPDCL. It is submitted that since TSSPDCL had already admitted 15 employees in terms of Supplementary Report dated 11.03.2020, the total employees to be admitted by TASSPDCL ought to be (113+2) as per the judgment dated 07.12.2020. It is submitted that however, TSSPDCL has reduced this number to 66 employees and resultantly 20 petitioners are dropped despite their allocation to TSSPDCL held to be absolute and all 20 petitioners have not attained age of 58 years and thus are outside the purview of Direction I. It is submitted that this is contrary to the judgment of this Court, the Direction No.I only stipulates to exclude Retired persons from TSSPDCL Allocation list annexed to the Concluding Report and none of the petitioners are retired in terms of Direction No.I. It is submitted that TSSPDCL issued office order audaciously ignoring the allocation made under Direction Nos. II & III as approved by this Court. It is submitted that therefore, TSSPDCL have devised the

office order to circumvent the orders of this Court with jugglery of the numbers and truncating the allocation lists and contemnors are guilty of dropping 20 petitioners as a result of willful disobedience of the order of this Court. It is submitted that the list of employees absorbed does not include the 20 petitioners who were already included in the final list of the One Man Committee. The said lists annexed to office order are prepared to confuse the tally of allocation lists and suppress the fact that TSSPDCL has absorbed only 66 (out of (113 +2), a list of 81 (66 +15) has been appended to office order to mislead this Court by repeating the same 15 employees who were already admitted on 11.03.2020 vide Supplementary Report of One Man Committee. It is further submitted that the employees who were never part of 113 employees allocated just to TSSPDCL and the list is fraudulently appended to display and match the number.

3.10. It is further submitted by Shri Ahmadi learned Senior

Advocate that the office order dated 19.12.2020 issued by the TSNPDCL is also in teeth of the judgment and order passed by this Court. It is submitted that as per the Concluding Report, TSNPDCL was to absorb 69 employees from APLPDCL & APSPDCL. It is submitted that since TSNPDCL, the net employees to be admitted by TSSPDCL ought to be 69 as per the judgment dated 07.12.2020. It is submitted that however, TSNPDCL has reduced this number to 60 employees and resultantly petitioner no.83 is dropped despite their allocation to TSNPDCL held to be absolute and the said single petitioner has not attained age of 58 years and thus are outside the purview of Direction I. It is submitted that this is contrary to the judgment of this Court, the Direction No.I only stipulates to exclude Retired persons from TSNPDCL Allocation list annexed to the Concluding Report and petitioner no.83 is not retired in terms of Direction No.I. It is submitted that therefore, TSNPDCL have devised the office order to circumvent the orders of this Court with jugglery of the numbers and truncating the allocation lists and

contemnors are guilty of dropping 1 petitioner as a result of willful disobedience of the order of this Court. It is submitted that the list of employees absorbed does not include the petitioner no.83 who was already included in the final list of the One Man Committee. The said lists annexed to office order are prepared to confuse the tally of allocation lists and suppress the fact that TSNPDCL has absorbed only 60 (out of 69), but a list 65 has been appended to office order to mislead this Court. It is further submitted that the employees who were never part of 69 employees allocated just to TSNPDCL and the list is fraudulently appended to display and match the number.

3.11. It is submitted that from the above, it is apparent that TS Power Utilities have not implemented the judgment dated 7.12.2020 passed by this Court. It is submitted that after confirmation of the Concluding Report of the One Man Committee and allocation lists, this was only a mechanical exercise of admission of the employees based on the lists, but TS Power Utilities have

reopened the entire lists and indulged in unilateral pick and choose.

3.12. It is submitted that in terms of direction VI of the One Man Committee, the petitioners are to be given posting and joining orders. It is submitted that the direction issued is followed by Andhra Pradesh Power Utilities, but Telangana Power Utilities have unilaterally altered the allocation lists and have denied posting and joining orders of 84 petitioners.

Making above submissions, it is prayed to punish the respondent/ contemnors Telangana Power Utilities for deliberate and willful disobedience of the orders passed by this Court dated 20.06.2020 and 7.12.2020 and not acting as per the Concluding Report of the One Man Committee.

4.0. Shri Ranjit Kumar and Shri V Giri, learned Senior Advocates have appeared on behalf of alleged contemnors – Telangana Power Utilities. It is vehemently submitted by learned counsel for the TS Power Utilities that vide order dated 28.11.2019 this

Court constituted One Man Committee headed by Justice D M Dharmadhikari (Retd.) to frame the modalities and finalize the allocation of employees between the Power Utilities of Telangana and Andhra Pradesh. One Man Committee determined the modalities and submitted final report dated 26.12.2019 allocating 655 employees out of 1157 employees from TS power Utilities to Andhra Pradesh Power Utilities while retaining 502 employees in TS Power Utilities, as per the opinion given by them. That aggrieved by the final report dated 26.12.2019, the Andhra Pradesh Power Utilities filed Miscellaneous Application Nos.60, 61 and 62 of 2019 in Civil Appeal No. 11435 of 2019. That this Court by an order dated 24.1.2020 directed the Andhra Pradesh Power Utilities to make a representation and same was to be considered by the One Man Committee and take appropriate decision.

4.1. It is submitted that in terms of the direction of this Court, an application was made by Andhra Pradesh

Power Utilities on 3.2.2020 before the One Man Committee and the TS Power Utilities were submitted their objections. That during the hearing before the One Man Committee, TS Power Utilities agreed to accommodate 71 employees from Andhra Pradesh Power Utilities to TS Power Utilities on spouse and medical grounds. That the One Man Committee vide supplementary report dated 11.3.2020 allocated 71 employees from Andhra Pradesh Power Utilities to TS Power Utilities on spouse and medical grounds etc. and directed the Andhra Pradesh Power Utilities to identify remaining 584 employees ($655-71 = 584$) for allocation from Andhra Pradesh to Telangana, since Andhra Pradesh Power Utilities had accepted 655 employees allocated by TS Power Utilities. Accordingly, the TS Power Utilities issued posting orders to 71 employees allocated by Supplementary Report dated 11.3.2020. That thereafter Andhra Pradesh Power Utilities submitted a report of 584 employees allocable from Andhra Pradesh to Telangana vide their letter dated 12.3.2020. Aggrieved by the letter dated

12.03.2020 of Andhra Pradesh Power Utilities, a representation was made by TS Power Utilities to the One Man Committee to reconsider the list submitted by Andhra Pradesh Power Utilities being contrary to modalities. It is submitted that at that stage, One Man Committee filed an application in MA No.915 of 2020 in MA No.60 of 2020 for payment of salaries pending consideration of objections made by the TS Power Utilities. The same came to be allowed by order dated 8.4.2020. It is submitted that thereafter this Court in Application made by the TS Power Utilities, by an order dated 1.5.2020 observed that One Man Committee shall take up the objections and take a decision at an early date after hearing all the affected persons and further directed to take steps for payment of salaries to the effected employees within a period of one week. Accordingly, TS Power Utilities have paid salaries to 584 employees who are figuring in the list dated 12.3.2020 communicated by the Andhra Pradesh Power Utilities to the One Man Committee.

It is submitted that One Man Committee vide instructions dated 11.5.2020 directed the Andhra Pradesh Power Utilities to send their proposed revised list limited to 584 employees, duly taking into consideration the representations received from the employees. It is submitted that Andhra Pradesh Power Utilities vide letter dated 26.5.2020 submitted a revised list of 655 employees allocable from Andhra Pradesh to TS Power Utilities on the principle of reciprocity. It is submitted that said list includes 71 employees already allocated vide supplementary report dated 11.3.2020 and working TS Power Utilities as on that date.

- 4.2. It is submitted that thereafter One Man Committee by Concluding Report dated 20.06.2020 annexed the revised list dated 26.5.2020 furnished by the Andhra Pradesh and gave further directions. It is further submitted that One Man Committee held that the allocation of 655 employees from Telangana and Andhra Pradesh is concluded. It further observed that

at para 28 that allocation list, company wise, post wise prepared by the Andhra Pradesh for allocation from Andhra Pradesh to Telangana is approved and in para no.29 suggested the list annexed to concluding report to be modified in terms of the directions contained therein. It is submitted that direction No.I of para No.29 specifies that the retired employees who attained or will be attaining 58 years of age in the year 2020 can be kept out of the allocation process and their names in the allocation lists are to be removed. It is submitted that direction no. II specifies that the Sub-Committee Member, Andhra Pradesh may re-examine left out spouse and medical cases and every attempt should be made to accommodate them in the State of their option. It is submitted that direction no.III specifies that all SC/ST employees cases be re-examined to accommodate them as per Modality VII in the State where they are notified as SCs and STs so as not to affect their future service growth.

4.3. It is submitted that on the implementation of the

Direction No.I of para 29 of the Concluding Report, the TS Power Utilities have identified 123 employees who are to be removed from the allocated list of 655 employees from Telangana State to Andhra Pradesh. Accordingly, allocated employees from Telangana State to Andhra Pradesh is reduced from 655 to 532 (655-123). It is submitted that therefore, correspondingly 532 members are to be allocated from Andhra Pradesh to Telangana State. It is submitted that out of 532 allocable employees, 71 employees have already joined and working in TS Power Utilities in terms of the Supplementary Report dated 11.3.2020. Accordingly, equal number of employees i.e. 123 members were removed from the list of allocable employees from Andhra Pradesh to Telangana State on the principle of Reciprocity and Financial Neutrality. It is submitted that in the process of removing 123 members, the 71 employees already allocated have not been disturbed. Accordingly, 456 employees are allocable from Andhra Pradesh to Telangana State. In respect of two employees allocable from Andhra Pradesh to

Telangana State, a clarification has been sought for, from the Andhra Pradesh.

4.4. It is submitted that thus the TS Power Utilities have implemented the judgment dated 7.12.2020 and Concluding Report dated 20.06.2020 of the One Man Committee in its true spirit. It is submitted that thus, the excess employees relieved from Andhra Pradesh to Telangana State are 83 ($615-532=83$).

4.5. It is submitted that in the process of allocation of employees, One Man Committee has allocated 71 employees working in Andhra Pradesh to Telangana State on spouse and medical grounds. They were treated as part of allocable employees in reciprocation of 655 already allocated to Andhra Pradesh vide Final Report dated 26.12.2019. It is submitted that therefore, Andhra Pradesh was directed to identify remaining 584 ($655-71$) vide the Supplementary Report dated 11.3.2020.

4.6. It is submitted that on implementation of the Direction

No. II of Concluding Report dated 20.06.2020, the same procedure is to be followed by the Andhra Pradesh whereas Andhra Pradesh vide letter dated 26.8.2020 identified 10 employees, who are shown over and above allocable 655 employees, which is just contrary to the reports of the One Man Committee. It is further submitted that it is open for the Andhra Pradesh to adjust the said employees within the Reciprocation ratio and in proportion to allocated employees from Telangana State to Andhra Pradesh.

4.7. It is submitted by learned counsel for the Telangana State Power Utilities that entire allocation process undertaken by the One Man Committee is on the principle of reciprocity and the same was reiterated in para no.21 of the Concluding Report. It is submitted that since 655 employees are already allocated vide Final Report dated 26.12.2019 from Telangana to Andhra Pradesh, equal number were allocable from Andhra Pradesh to Telangana State. It is submitted that the One Man Committee had taking into

consideration of 71 employees already allocated, directed the Andhra Pradesh to furnish a list of 584 employees and the same were included as Annexure to the Concluding Report. In the process of implementation of Directions of Concluding Report dated 20.06.2020, 123 employees are deleted by Telangana State. It is submitted that therefore, the allocable employees from Andhra Pradesh to Telangana State shall also stand reduced from 655 to 532 ($655-123=532$). It is submitted that further 10 employees allocated under Direction No.II are to be accommodated within 532 including 71 employees already allocated. However, the Andhra Pradesh has not undertaken any exercise thereby leading to retention of 83 employees allocable from Andhra Pradesh to Telangana State, which lead to the present situation. It is submitted that instead of rectifying the same, Andhra Pradesh is seeking to justify their stand by filing intervention petition, which is unjustified.

4.8. It is further submitted that the principle of reciprocity

has been approved by this Court in its judgment dated 7.12.2020 (para 26, 41 & 42). It is submitted that this Court has further observed that the implementation of the direction cannot be termed as modification of the Concluding Report and both the Power Utilities were directed to implement the same. It is submitted that thus there is no violation on the part of the TS Power Utilities in the implementation of the orders dated 7.12.2020.

Making above submissions, it is prayed to dismiss the present contempt petition and to direct Andhra Pradesh Power Utilities to retain the corresponding 83 employees deleted from the list of employees allocable from Andhra Pradesh to Telangana duly adhering to the principle of reciprocity and financial neutrality.

5.0. Shri Niraj Kishan Kaul, learned Senior Advocate appearing on behalf of the intervenors- Andhra Pradesh Power Utilities has submitted that the respective alleged contemnors have committed

apparent contempt of the judgment and order passed by this Court dated 7.12.2020.

5.1. It is submitted that the allocation list approved by the One Man Committee in the Final Report dated 20.06.2020 is final and the same is to be implemented by the both the Power Utilities without justifying the allocation list. It is submitted that TS Power Utilities have devised office orders only to reopen and review the allocation exercise which is already concluded and approved by this Court (Direction No.I).

5.2. It is submitted that the retired / retiring employees are not part of the financial burden as it was agreed by both the sides to keep them out of allocation exercise. It is submitted that financial neutrality was already in place while preparing 655 = 655. It is submitted that therefor, thereafter it does not lie in mouth of any utility that retired / retiring employees are financial burden on them.

5.3. It is further submitted that a perusal of the judgment

dated 7.12.2020 would show that the objection of TS Power Utilities with regard to excess allocation and also with regard to the reciprocity, in respect of 655 number were categorically rejected and the final list appended to the Concluding Report was expressly affirmed. It is submitted that there is expressed direction to the Power Utilities of both the States and all concerned to implement the report of the One Man Committee.

5.4. It is submitted that TS Power Utilities has been involved in jugglery of figures and they have brought new figures time and again to delay and confuse the allocation process.

5.5. It is submitted that in terms of direction (VI) of the One Man Committee both the TS and Andhra Pradesh Power Utilities were required to issue order of posting of their joining and granting sufficient time to the employee to report for duty. It is submitted that the said direction has been followed by the Andhra Pradesh Utilities, however Telangana Utilities /

Telangana State has unilaterally altered the allocation list and denied posting and joining orders to 84 petitioners, which is just contrary to the judgment and order passed by this Court dated 7.12.2020 and the Concluding Report dated 20.06.2020. It is submitted that the respondent contemnors have disregarded the soul of the allocation exercise and are in serious willful contempt of this Court.

6.0. Heard the learned counsel for the respective parties at length. The present application has been preferred by the 84 employees of the erstwhile Andhra Pradesh Power Utilities who are relieved by the Andhra Pradesh Power Utilities, alleging willful and deliberate disobedience of the directions issued by this Court in the judgment and order dated 7.12.2020 approving the concluding report / final report submitted by the One Man Committee consisting of Justice D M Dharmadhikari, Former Judge of this Court. At this stage, it is required to be noted that as such the Andhra Pradesh Power Utilities have already relieved

the petitioners. However, the respondent alleged contemnors - Telangana State Power Utilities have not permitted the applicants to join the duty in the respective TS Power Utilities.

7.0. Before we proceed further to consider the present application, the history which led to constitute of a One Man Committee and chronological list and events are required to be referred to and which as such had been ultimately dealt with and considered by this Court in the judgment and order dated 7.12.2020 in MA No.1270 of 2020 in Civil Appeal No.11435 of 2018 and other allied Applications, which are as under:

At this stage, it is required to be noted that in the present case, the dispute is concerning the employees of the Telangana State Power Utilities and Andhra Pradesh Power Utilities.

7.1. The Andhra Pradesh Reorganization Act, 2014 was enacted by Parliament to provide for the reorganization 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. Section 82 of the Andhra Pradesh Reorganization Act, 2014 reads as under:

“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.”

7.2. The State of erstwhile Andhra Pradesh issued government orders for Distribution Companies, for Generation Companies and for Transmission Corporation whereby assets and liabilities of the aforesaid corporations and companies were apportioned between the two new States along with the posts sanctioned for the employees working in those power sector corporations/companies. However, the Power Utilities of the two newly formed States (Andhra

Pradesh Power Utilities and Telangana Power Utilities) 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. 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 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.

7.3. The matter reached to this Court and 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, appointed One Man Committee consisting of Justice D.M. Dharmadhikari, a former Judge of this Court. In the order dated 28.11.2018 this Court specifically made it clear that the decision of the One Man Committee 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. This Court also 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.

7.4. That thereafter, after considering the representation by all concerned and the respective stake holders, 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. Thereafter, the Telangana Power Generation Corporation Limited filed an application questioning the modalities finalised by One-Man Committee. However, this Court did not entertain the said application. That thereafter, a report title as “Final Report of One-Man Committee” dated 26.12.2019 was submitted by One-Man Committee. Along with the 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. That the Andhra Pradesh utilities were aggrieved by the final list communicated in the final report filed Interlocutory Applications. It was the case on behalf of the Andhra Pradesh Power Utilities that the modalities have not been correctly implemented and the list annexed is not in accordance with the modalities. This Court disposed of the said application with 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.”

7.5. 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 dependents.

- 7.6. In the Supplementary Report, the One-Man Committee directed that the entire allocation process based on the allocation list 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 said application observing that

the objections with regard to 584 employees were to be considered by One Man Committee.

7.7. 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.

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.

III. All SC/ST employees cases be reexamined 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.

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.

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.

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.

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.

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."

7.8. 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.

After submission of the Concluding Report dated 20.06.2020 and follow-up action taken by the Andhra Pradesh Power utilities, number of miscellaneous applications have been filed by Telangana State Power Utilities, by several employees as well as employees' associations. The Telangana State Power Utilities Generation Corporation prays for the following reliefs:

“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.

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. 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.

d) Clarify that the Supplementary Report in so far as Para No.27, authorizing the Member, Subcommittee 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.

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."

7.9. Similar prayers were made by other Telangana Power Utilities. That by a detailed order dated 7.12.2020, this Court dismissed the Miscellaneous Applications filed by the Telangana State Power Utilities. While dismissing the respective Miscellaneous Applications filed by the Telangana State Power Utilities which were dismissed after considering in detailed the rival submissions/ objections against the final report dated 20.06.2020, certain observations are made by this Court, which are very relevant while considering the present application, which are as under:

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 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.

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 based on 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 lint

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.”

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 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.

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.

III. All SC/ST employees cases be reexamined 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.

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 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.”

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 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.

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.”*

8.0. Thus, from the above, it is apparent that this Court specifically observed and held that the Final Report dated 26.12.2019 submitted by the One Man Committee along with allocation list is final and conclusive and is binding to both the States and

respective Power Utilities viz. Telangana Power Utilities and Andhra Pradesh Power Utilities. The only exception was with respect to those employees who attained the age of 58 years in the year 2020. Those employees with the consent of the respective Power Utilities were kept out of allocation process. It is to be noted that the respective applicants – 84 petitioners figured in the final list prepared by One Man Committee. The names of the petitioners are duly mentioned in the said list of the One Man Committee Report which is prepared Utilities wise. Out of 84 petitioners and as per the Final List of 28 petitioners had to be absorbed in TS Genco, 35 petitioners had to be absorbed in TS Transco and 21 petitioners had to be absorbed in TS Discoms. As observed herein above, the respective Andhra Pradesh Power Utilities have already relieved respective petitioners and thereafter they are no more continued with their erstwhile employers – Andhra Pradesh Power Utilities respectively. Therefore, once the names of the 84 petitioners figured in the Final List prepared by the

One Man Committee and the Final Report has been accepted and approved by this Court and it is directed that both the States and their respective State Power Utilities are bound by the Final Report of the One Man Committee and Final List prepared and communicated with the Supplementary Report / Final Report, thereafter any deviation from the same would tantamount to willful disobedience of the directions issued by this Court. At this stage, it is required to be noted that in the earlier order, this Court has specifically observed and made it clear that the decision of the One Man Committee shall be final and binding on all the parties including the Power Utilities Companies of the two States as well as employees and shall be executed by all the parties as an order of this Court. In that view of the matter, the respective subsequent office orders dated 17.12.2020 (issued by the TS Genco), office order dated 18.12.2020 (issued by the TS Transco), office order dated 18.12.2020 (issued by the TSNPDCL) and the office order dated 19.12.2020 (issued by the TSSPDCL) are just contrary

to the directions issued by this Court and contrary to the Supplementary Report / Final Report submitted by the One Man Committee dated 20.06.2020 which would tantamount to willful disobedience of the directions issued by this Court. Again, the Telangana State Power Utilities have raised the same issues with respect to the Reciprocity and Financial Neutrality, which were earlier raised before this court by filing respective Miscellaneous Applications and same came to be dismissed by this court vide order dated 7.12.2020. Thereafter, to raise the same objections / issues again by the Telangana State Power Utilities would tantamount to willful disobedience of the directions issued by this Court. Telangana State Power Utilities cannot be permitted to raise the same objections / issues again and again, which were earlier raised before this Court and this Court held against the Telangana State Power Utilities. There must be an end to a litigation. By permitting the Telangana State Power Utilities and /or any other parties to raise the issues / objections again and

again, the object and purpose of constituting One Man Committee by this Court would be frustrated. This Court purposefully directed to constitute the One Man Committee consisting of Mr. Justice D M Dharmadhikari, Former Judge of this Court to put an end to the litigation with respect to the allocation of the employees and other disputes with respect to the respective Power Utilities of both the States. It is very unfortunate that the State of Telangana and Telangana Power Utilities have continued to re-agitate the issues, which are already held against them earlier.

- 9.0. In view of the above and for the reasons stated above, we hold the respective Telangana Power Utilities for willful and deliberate disobedience of the judgment and order passed by this Court dated 7.12.2020 in MA No.1270 of 2020 in Civil Appeal No.11435 of 2018 and other allied Miscellaneous Applications and we hold them guilty for the contempt for the same, for which, they are liable to be suitably punished. At this

stage, it is required to be noted that as observed herein above, the petitioners are already relieved by the Andhra Pradesh Power Utilities since long and because of the aforesaid office orders the respective petitioners are not permitted to join in the respective Telangana Power Utilities and their future is at stake and they are without any salary from the date they are relieved by the respective Andhra Pradesh Power Utilities. Before we pass any further order on the sentence / punishment, we give one additional opportunity to the respective Telangana Power Utilities i.e. TS Genco, TS Transco, TSSPDCL and TSNPDCL to comply with the directions issued by this Court in the final judgment and order dated 7.12.2020 and Concluding Final Report submitted by the One Man Committee dated 20.06.2020 and to absorb all the respective petitioners in the respective Telangana Power Utilities / establishment as per the list approved by the One Man Committee which would have a direct bearing on the punishment / sentence to be imposed. We give further two weeks' time to

respective Telangana Power Utilities / Corporation to absorb the petitioners. We also direct the respective Telangana Power Utilities viz. TS Genco, TS Transco, TSSPDCL and TSNPDCL to pay salary and other service benefits to the petitioners from the day they are relieved by the respective Andhra Pradesh Power Utilities, to be implemented within two weeks.

Put up on 31.10.2022 for further order.

.....J.
(M. R. SHAH)

New Delhi,
October 11, 2022.

.....J.
(A.S. BOPANNA)