



CHIEF SECRETARY  
GOVERNMENT OF ANDHRA PRADESH

GENL. ADMIN. (SR) DEPARTMENT

D.O. Lr.No.2394 /GAD/SR/2015, Dt:09.07.2015.

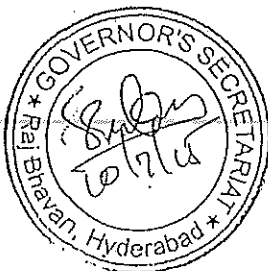
Dear L.C. /

Kindly refer to my letter Dt.09.06.2015 in which I had brought to your kind notice the plight of employees of Andhra Pradesh nativity working in Power utilities of Telangana State and requested you to intervene so that these employees are not discriminated based on their nativity and relieved from their duties. Unfortunately the 1253 employees were relieved the very next day.

I would like to give details of the events that preceded the above highhanded action of Govt. of Telangana and the efforts put in by the functionaries of power utilities of Andhra Pradesh to bring about an amicable settlement. The Energy Department of Govt. of Andhra Pradesh issued orders before the appointed day i.e., 02.06.2014 allotting certain posts and employees on "order to serve" basis based on their local candidature in terms of presidential order to ensure that power utilities in both the States will be able to function without any hindrance.

To pave way for final allocation of employees in accordance with the provisions of the A.P. Reorganization Act on 26.11.2014, the CMD, A.P. Transco suggested constitution of a committee comprising of officers from A.P. Transco & T.S. Transco for division of posts and personnel as on 01.06.2014 between the two corporations and requested for nomination of officers from T.S. Transco in the joint committee (Annexure-I). The Director (Projects & HR), T.S. Transco nominated four officers as members of joint committee for finalization of State cadre employees of combined A.P. Transco (Annexure-II).

Meanwhile, CMD, T.S. Transco on 21.01.2015 unilaterally constituted a common committee for preparation of modalities for final allocation of employees to the power utilities of Telangana State i.e., T.S. Transco, T.S. Genco, T.S. SPDCL and T.S. NPDCL (Annexure-III). This committee was entrusted with the task of collection of employee data, fixation of norms to establish nativity etc.



It is evident from the above that though as per provisions of the Section-82 of the A.P. Reorganization Act, 2014 the task of determination of modalities which ought to have been done by the corporate body that existed as on 01.06.2014 is taken over unilaterally by the T.S. Transco. Strangely, the principle of nativity which has no basis anywhere in the A.P. State Reorganization Act, 2014 and is un-constitutional was brought in by the Telangana State into the modalities of allocation of employees.

Unaware of this the CMD, A.P. Transco wrote to CMD, T.S. Transco on 19.02.2015 constituting the joint committee and suggested procedure for preparation of tentative allocation of employees (Annexure-IV). In reply the CMD, T.S. Transco informed the CMD, A.P. Transco on 04.03.2015 that the common committee of power utilities has recommended that nativity should be taken as basis for allocation and therefore the modalities proposed by A.P. Transco are not acceptable to T.S. Power utilities (Annexure-V). CMD, A.P. Transco, once again, requested CMD, T.S. Transco on 18.03.2015 to take part in the Joint Committee proposed by A.P. Transco so that appropriate modalities can be worked out in accordance with provisions of Section-82 of the A.P. Reorganization Act, 2014 (Annexure-VI).

Meanwhile, Sri Anant Kumar Singh, Addl. Secretary, Ministry of Home Affairs, Govt of India conducted a meeting at Hyderabad on 20.03.2015 with both the Chief Secretaries and other officers concerned to resolve the disputes between the two States in which Secretary to Govt., Energy Department, Govt. of Andhra Pradesh raised the issue of employees of power utilities and it was agreed by the Chief Secretary and Energy Secretary, Govt. of Telangana that division of employees would be done by the joint committee of power utilities of both the States this was also minuted accordingly (Annexure-VII). A letter was also written by me on 26.03.2015 to the Chief Secretary, Govt. of Telangana to instruct the concerned not to proceed unilaterally and to form the joint committee (Annexure-VIII). The CMD, T.S. Transco informed CMD, A.P. Transco on 02.04.2015 that there is no objection to discuss with the committee constituted by Andhra Pradesh on the modalities (Annexure-IX). The CMD, A.P. Transco fixed 30.05.2015 as the date for discussion and requested CMD, T.S. Transco to depute officers (Annexure-X). However, CMD, T.S. Transco on 29.05.2015 informed that they are awaiting instructions from Govt. of Telangana (Annexure-XI). Secretary to Govt., Energy Department, Govt. of Telangana on 06.06.2015 communicated approved guidelines for division of employees in power sector which specify that nativity ("place of birth as per Service Register, initial cadre, appointment orders/police antecedents") shall be the basis for final allocation between the two States (Annexure-XII).

In this regard even with reference to distribution of employees the broad principle that was followed U/s 77 (2) of the Act is that employees of the Local, District, Zonal and Multi-Zonal cadres which fall entirely in one of the successor States shall be allotted to the successor State. The Discoms located at Northern Power Distribution Company of Telangana Ltd., (NPDCL) at Warangal and the Southern Power Distribution Company of Telangana Ltd, at Hyderabad which have been as on Appointed Day got bifurcated excluding the districts of Kurnool and Ananthapur and was restricted to serve the Telangana area. Since both these distribution companies are serving territorially Telangana area only , extending the logic of section 77 (2) , where for distribution of Government employees those working entirely in one of the successor States shall be deemed to have been allotted to that successor State. The employees of Distribution Companies are ideally go with the place where they are working cannot be relived and sent to some other area. In this case not only the headquarters organization for TS TRANCO and TS GENCO even the employees of distribution companies were identified based upon nativity and relived to join in the Andhra Pradesh power utilities

On 10.06.2015, 1253 employees of T.S. Transco & T.S. Genco, T.S. SPDCL, and T.S. NPDCL whose nativity allegedly is Andhra Pradesh were relived. On 12.06.2015 Hon'ble High Court in W.P.No.16330 of 2015 suspended the relief orders given and ordered Status-quo as on 09.06.2015. Instead of implementing the orders of the Hon'ble High Court they filed an appeal before the Division Bench of the Hon'ble High Court. The latest development is said to be that they have withdrawn the appeal filed before the Division Bench and filed a vacate stay petition before the single judge.

From the chronology of the events mentioned above, I am sure you will agree that the behavior of the functionaries of power utilities and Govt. of Telangana, to say the least, is inexplicable and inappropriate and inhuman.

It is the stand of the Govt. of Andhra Pradesh right from the beginning that the institutions listed under Schedule-IX are commercial undertakings which are expected to run on commercial lines without any Government assistance. Therefore, if the employees are divided based on any other consideration other than population ratio many of these undertakings would become sick on account of disproportionate expenditure on wages. Since, population ratio is the general principle adopted in the A.P. State Reorganization Act, 2014 it was suggested that this should be the basis for division of employees in Schedule-IX institutions. Both APTRANSCO & APGENCO Managements met and passed resolutions for allocation of the posts and employees on population ratio (Annexure-XIII & XIV respectively). But we have refrained relieving persons based on this principle as this would be inappropriate and inhuman in the absence of a mutually agreed principle or criteria as determined by Government of India

The Hon'ble Jharkhand High Court constitution Bench in the case of Prashant Vidyarthi & Suman Kumar Vs State of Jharkhand and others held that we have to clearly distinguish between natives, the originals or the ab-originals on the one hand, and the "ordinary" residents on the other. There may be classes of residents who may come in the categories of "natives", "originals" or "ab-originals" but to term them alone local as "local residents" and in the process to exclude the so called non-natives, the so called non-originals or the so called non-ab-originals who have been residing in Jharkhand for decades and decades would clearly be a patent violation of Article 14 of the Constitution and would also run counter to the spirit of Articles 5 & 6 of the Constitution depriving the natural citizens of this Country the status of "residents" in a particular State and the rights that flow from such States. After all the persons who have been residing in Jharkhand for few decades or even few years cannot be asked to move out of the State to other areas because there also they might face the same problem. The concept of "local residents", therefore, has to be made more broad based. We therefore, have no doubt what so ever in our minds that the definition of "local residents" in the two impugned notifications is too narrow, too pedantic, too constricted and so arbitrary that on the touch stone of Article 14 of the Constitution of India, it must fall. Therefore, the two impugned notifications in so far as these relate to the definition of the term "local residents" and the procedure prescribed therefore, are unconstitutional and on this ground and to this limited extent deserve to be struck down (Annexure-XV).

In this connection and in the light of the Judgment referred above, I am to bring to your kind notice that it is the employees who are affected and who have gone to the Court, the State Government of Andhra Pradesh has not gone to the Court. There is nothing that prevents the Government of India to intervene and settle the issue. It would not be appropriate if citing the case filed by the employees in the Hon'ble High Court, GoI refuses to intervene in this very sensitive case, where more than 1000 families are affected for no fault of them because of injudicious, irrational, unconstitutional and illegal action taken by one Government without informing or involving the others. Hence, we earnestly request GoI to immediately pass necessary orders as per the powers they have under the AP Reorganization Act, 2014 U/s 108, which provides for the President to pass orders to remove any difficulties arising giving effect to the provisions of this Act and also as there is a real vacuum as the Board as on 1st June, 2014 which has the power to take the decision has not taken and now there is no United Board which can take a decision on this.

In this connection, I also draw your kind attention to letter dated:08.07.2015 in which a meeting was called on 31<sup>st</sup> July, 2015. I am to inform you that this is a matter of urgency which needs to be settled without any further delay. A meeting almost all 20 days later would only result in postponing the decision which is going to have a bearing on the families who are on the roads and at any time this is going to turn out into a major Law & Order problem, once anyone of them may resorts to desperate action unable to bear the humiliation and the suffering.

Hence, I request the Secretary, MHA to immediately request the Telangana Government to restore "status quo ante" and take all these employees back into service in the respective Power Utilities and then call for a meeting to sort out the issues mutually as agreed upon, failing which, as decided by Government of India. The matter is urgent and brooks no delay. At least Status Quo ante be restored immediately pending a decision on modalities of dividing the staff of Schedule XI institutions between the Governments

With

Yours sincerely,  
Sd/-  
(I.Y.R. KRISHNA RAO)

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Copy to : Spl.C.S to Governor,  
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(I.Y.R. KRISHNA RAO)