

ANDHRA PRADESH POWER GENERATION CORPORATION LIMITED

ABSTRACT

AP Reorganisation Act 2014 – Bifurcation of employees of Power Utilities between the states of Andhra Pradesh and Telangana – 655 employees relieved from TS Power Utilities to join in AP Power Utilities and corresponding 655 relieved from AP utilities to join at TS utilities – Payment of salaries/ pensions as per orders of the Hon'ble Supreme Court Dt: 08.04.2020 for the Month of April 2020 – Instructions – Issued.

G.O.O. No. 17/CGM(Adm,IS&ERP)/2020

Dt.30.04.2020

Read the following

1. Interim orders dt: 08.04.2020 of Hon'ble Supreme Court of India in MA No: 915/ 2018 in MA No: 60/ 2020 in CA No: 11435 of 2018.
2. Legal opinion dt:22.04.2020 of Sri Rakesh K Sharma, AOR in consultation with Sri Puneet Jain, Advocate/ Supreme Court of India.

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ORDER:

Whereas Hon'ble Supreme Court of India has issued interim orders dt:08.04.2020 in MA No: 915 in MA No: 60/ 2020 in CA No: 11435 of 2018 and directed the AP and TS Power Utilities to keep the details of service records of 655 employees relieved from either side available online and basing on that the salaries/ pensions shall be paid to these employees for the month of April 2020 in view of the COVID-19 Lockdown prevailing in the country.

2. The allocable employees to the tune of 6102 employees (of erstwhile AP Power Utilities of unified A.P. State) working on "order to serve" as per GO Ms. Nos. 24, 25, 26 issued by Government of Andhra Pradesh in terms of provisions of A.P. Reorganisation Act, 2014 were to be allocated to both states. Thereafter series of litigation right from Hon'ble High Court and Hon'ble Supreme Court of India ended up in reference of matter to the One Man Committee presided over by Hon'ble Mr. Justice D.M. Dharamadhikari, former Judge, Supreme Court of India for framing modalities and affecting final allocation of employees.

3. The One Man Committee had then framed the modalities which were challenged by TS Power Utilities before Hon'ble Supreme Court vide MA Nos. 851 of 2019 & batch and the said application was rejected by Hon'ble Supreme Court and modalities as framed were confirmed. The One Man Committee thus has passed Final Report dated 26.12.2019 and Supplementary Report dated 11.03.2020 with Clarification dated 13.03.2020. The sum and substance of these reports is 655 employees working on order to serve at TS utilities are finally allocated to A.P. Power Utilities and similarly balancing another 655 (71 + 584) working on order to serve at AP utilities are allotted to T.S. Power Utilities. The rest of the employees stand finally allotted to the respective utilities 'as is where is'.

4. The last date for completion of above process was mentioned as 30.03.2020 but due to unforeseen event of COVID-19 Lockdown in the country, the One Man Committee took a humanitarian stand and passed the directives dated 26.3.2020:-

“... As a modification to the further directions sent by email on 24-03-2020 it is directed that the 655 employees awaiting joining and postings in power utilities in AP and 584 employees awaiting joining and postings in TS Power Utilities be paid only regular monthly salary from 1st April 2020 by the respective Power Utilities falling within the territories of Telangana and Andhra Pradesh to whose services the employees have been allocated under the final and supplementary report.”

5. Whereas, the supplementary report dated 11.3.2020 (along with the clarification dated 13.3.2020) and the directions dated 24.03.2020 and 26.03.2020 contained therein are clear and explicit and are required to be complied with and no utility can be permitted to unilaterally “reject” the allocation as per the Report. However, the TS Power Utilities vide letter dated 30.03.2020 have rejected the Allocation in terms of supplementary report dated 11.03.2020.

6. The said action of TS Power Utilities vide letter dated 30.03.2020 of illegal and unilateral rejection of the allocation process was brought to the notice of the One Man Committee through AP Sub Committee Member vide letter dated 31.03.2020. It was categorically mentioned in the letter dated 31.03.2020 that AP Power Utilities are agreeable to implement the allocation of 655 employees allocated to AP utilities, only if reciprocally all corresponding 655 (71 + 584) employees allocated to TS utilities are admitted by the TS Power Utilities.

7. The One Man Committee took cognizance of the unwarranted situation initiated at the instance of TS Power Utilities, and the One Man Committee presided over by Hon'ble Mr. Justice D. M. Dharamadhikari himself have filed an application MA No. 915 of 2020 which was admitted by the Hon'ble Supreme Court by Court's own motion and order dated 08.04.2020 delivered, whereby directions issued by One Man Committee dated 26.03.2020 were confirmed and it was directed to pay salaries as per Online Service Records as per the directive of One Man Committee dated 26.03.2020.

8. In response to the request from the APTRANSCO, Sri Rakesh K Sharma, AOR in co-ordination with Sri.Puneet Jain, Advocate, Supreme Court of India furnished his Legal Opinion on payment of salaries/ pensions to the 655 employees relieved from TS Power Utilities to AP Power Utilities and suggested for payment of salaries to the 655 employees relieved from TS Power Utilities for the Month of April 2020 from AP Power Utilities to comply with orders of Hon'ble Supreme Court of India dt: 08.04.2020.

9. It is pertinent to mention herein that, since Hon'ble Supreme Court has passed an order and the same cannot be challenged before any forum and the same is to be implemented by all parties in its true spirit. However, it is learnt that, the TS Power Utilities vide Diary No. 10964 of 2020 have again filed Application for Clarification of order dated 08.04.2020 and is not admitted by the apex court till

date. Under legal advice, it is rendered that the aforesaid application is not maintainable as order is manifestly clear and no further clarification can be sought and the application is a disguised review petition on merits which is not maintainable as the order dated 08.04.2020 is passed upon the application/reference of the One Man Committee. The allocation of 655 employees to AP Utilities and corresponding 655 (71 + 584) employees to TS utilities, is final and this allocation is not challenged by T.S. Power Utilities and has become final and objections as being raised are untenable and are liable to be rejected on the face of it; as Final Report dated 26.12.2019 and Supplementary Report dated 11.03.2020 have attained finality.

10. In pursuance of the orders of Hon'ble Supreme Court, the AP Power Utilities have e-mailed and made online, the particulars of LPCs (Last pay certificates) and service records of the 655 (71+584) employees relieved from AP Power Utilities to join in TS Power Utilities.

11. Therefore, in compliance of the directions dated 26.03.2020 by Hon'ble justice D.M. Dharmadhikari, Former Judge of Supreme Court & One Man Committee appointed by Hon'ble Supreme Court of India, and in compliance of the orders dated 08.04.2020 by the Hon'ble Supreme Court of India, APGENCO has hereby ordered to pay salaries to 300 employees being part of the above 655 employees for the month of April, 2020. Payment of salary to the said employees, in compliance of the orders as aforesaid, is without prejudice to rights, claim or objections of APGENCO as stated in the Letter of the Sub-Committee member of AP Power Utilities dated: 31.03.2020, i.e. until TS Power utilities agrees to and admits the 584 employees allocated to the TS Power utilities as per supplementary report of One-man Committee Dt:11.03.2020.

12. For adopting uniform process for payment of salaries/ pensions to the 300 employees (being part of the 655 employees) relieved from TSGENCO to APGENCO for the month of April 2020 payable in May 2020, the following guidelines are issued to the disbursement officers

a) The payment of salaries/ pensions for the Month of April 2020 shall be made to the employees individual bank accounts, through APPCC in pursuance of the orders of Hon'ble Supreme Court dt: 08.04.2020 pending receipt of orders of the One-Man Committee in respect of allocation and arrears of salary as observed in the directions dated: 26.03.2020.

b) Steps be taken for arriving at the actual salaries/ pensions for the 300 employees relieved from TSGENCO and inform the details to the APPCC for making payment to the employees/ pensioners.

c) Necessary action shall be taken for deferment of salaries of the employees as per the orders already existing in force.

13. The FA&CCA (Audit & Trust) & FA&CCA (Accounts & Resources) shall take immediate action to comply with the above instructions and ensure that salaries/ pensions are paid to the 300 employees relieved from TSGENCO to the APGENCO for the month of April 2020 payable in May 2020 and send a compliance report.

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14. It is made clear that the payment of salary for the month of April, 2020 to the 300 employees (being part of the 655 employees) does not confer them any right whatsoever to claim or to join in AP Power Utilities i.e APGENCO.

15. A copy of these orders is available online at <http://www.apgenco.gov.in>.

(BY ORDER AND IN THE NAME OF MANAGING DIRECTOR)

B.SREEDHAR
MANAGING DIRECTOR


To
All FA&CCAs/APGENCO

Copy to:

The PS to Chairman/APGENCO/VS/ Vijayawada.
The Dy.EE(T) to Managing Director /APGenco/VS/ Vijayawada.
The PS to Joint Managing Director/APTransco/VS/VJA.
The Dy.CCA to Director (Finance&Commercial)/APGENCO/VS/Vijayawada
The Dy.EE(T) to Director (HR&IR)/VS/Vijayawada.
The FA&CCA/APPCC /VS/Vijayawada.
The Chief Engineer/APPCC/VS/Vijayawada.
The Pay Officer//Accounts Officer (CPR) APGENCO/VS/ Vijayawada.
All the Deputy Secretaries/APGENCO
The Central Record Section & The Stock File.

C.No.CGM(Adm.,IS&ERP)/EE(MPP)/16/2020.

//FORWARDED BY ORDER//


EXECUTIVE ENGINEER(MPP)