



W.P.No.8639 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON	23.01.2023
ORDERS PRONOUNCED ON	01.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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1.A.S.Srinivasan
2.G.Kandaswamy
3.R.Bhoopathi
4.N.Sundarajan
5.N.Thiyagarajan
6.K.Jambulingam
7.J.Mohan
8.E.Chandra Babu
9.A.Jayaram

... Petitioners

Vs.

1.The General Manager,
(Human Resources) & Secretary,
Chennai Petroleum Corporation Limited,
(Formerly MRL), Manali,
Chennai – 600 068.

2.The Special Officer,
Industrial Co-operative Service Society,
Chennai Petroleum Corporation Limited,
(Formerly Known as MRL), Manali,
Chennai – 600 068.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 1st respondent dated 25.01.2005 and quash the same and further direct the respondent to absorb the petitioners in Chennai Petroleum Corporation Limited.

For Petitioners : Mr.G.Ilangovan

For Respondents : Mr.S.Shivathanu Mohan for R1
for M/s.S.Ramasubramaniam
and Associates
No appearance for R2

ORDER

This Writ Petition has been filed praying to quash the impugned order of the 1st respondent dated 25.01.2005, whereby, the petitioners' request for absorption into 1st respondent-CPCL was rejected. The petitioners also seeks for a direction to the respondents to absorb them in Chennai Petroleum Corporation Limited.

2.It is averred in the writ petition that the petitioners were guaranteed employment in the 1st respondent corporation as their families lands were



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acquired by the government for establishing the 1st respondent corporation.

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Pursuant to the applications invited from the 1st respondent corporation by its letter dated 16.05.1985, the petitioners have submitted applications; call letters were issued and after interview, they were appointed by the 1st respondent corporation in the 2nd respondent co-operative society.

3.The petitioners were employed in the 2nd respondent society and were doing the same job as the regular employees of the 1st respondent corporation. The grievance of the petitioners is that they received lesser salary than the salary of the 1st respondent's employees though they are doing the same job. There is no promotion and no equal pay for equal job.

4.Workers Union had initiated an industrial dispute in ID No. 128/2001 for their absorption in the 1st respondent corporation. After a full fledged enquiry, the industrial tribunal passed an award dated 30.08.2010 directing the 1st respondent corporation to absorb the members of the 2nd



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respondent society with retrospective effect with all resultant back wages and attendant benefits.

5. Aggrieved by the said award, the 1st respondent corporation challenged the award before this Court in W.P. No 4388/2009. The said writ petition was allowed by this court holding that the contract labourers in the 2nd Respondent society did not have any right to claim absorption or regularization or employment.

6. Aggrieved by the order of the learned Single Judge, the workers union filed appeal in WA No. 1071 of 2012. The Division Bench of this court, dismissed the writ appeal. In fact, this writ petition was tagged along the said writ appeal for hearing, but by the order of Division Bench, this matter was de-linked.

7. Mr. M. Ilangoan, the learned counsel for the petitioners would submit that the claim of employment of the members of the dispossessed families for different projects were allowed by this Court in W.P.No.4113 of



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1998 etc batch and this court directed the Public sector corporation BHEL/BAF Ranipet, to give employment.

8.The learned counsel in support of his submissions, would rely on the Judgment of a Division Bench of this court in Writ Appeal Nos. 2736 and 2737 of 2001, wherein it is held as follows:

“The government had issued G.O.Ms.No.656 labour and employment department dated 29.06.1978 wherein it was ordered that the members of families who's lands are acquired for govenment purposes as well as for the projects of the public sector undertaking and displaced as a result of the acquisition be accorded 3rd priority under group 2 of the list of priorities annexed to the said G.O in the matter of provisions of employment assistants through employment exchanges the government of India in their letter 2nd cited in the said GO had requested the government to issue instructions to the private sectors as well as state public



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sector undertakings to provide employment to at least 1 person of the family displaced on account of acquisition of land for the establishment of a project in the public sector or in the private sector.

All public sector undertakings may recruit without reference to employment exchange at least 1 member of each family which is displaced on account of acquisition of lands for any projects of such public sector undertakings etc.”

9.The learned counsel for the petitioners further submitted that to get absorption/employment in the 1st respondent corporation, the petitioners were all along approaching different forum and most of the petitioners retired from their service. Now, the petitioners' family members are readily available with suitable educational/technical qualification for employment in the 1st respondent corporation and it is just and necessary to strike the balance by issuing direction to the 1st respondent corporation to consider them for suitable employment.



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10. Per contra, Mr. Sivathanu Mohan, learned counsel for the

1st respondent would submit that pursuant to interview, the petitioners accepted employment in the 2nd respondent society and they were appointed in the year 1988. After more than 15 years, they made representations i.e in 2004, seeking for absorption as employees in the 1st respondent corporation. The petitioner's claim for absorption is not sustainable since they were recruited only under the 2nd respondent.

11. The learned counsel would further submit that the Union representing the workmen had executed a Settlement under Section 12(3) of the Industrial Disputes Act, 1947, where the issue of permanent employment for the members of the 2nd Respondent Society in the 1st Respondent Corporation was raised by the said Union. It was specifically agreed in point (ii) of the said Settlement as follows:

*"The management shall endeavour to absorb all other
INDCOSERVE workers subject to their rules and
regulations as and when there is requirement of*



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permanent workers."

Therefore, even as per this 12(3) Settlement, it is clear that absorption as permanent employees of the members of the 2nd Respondent Society including the Petitioners would be only as and when there is vacancy and as per the rules and regulations of the 1st Respondent Corporation. In reply to the petitioner's request, it was informed by the impugned orders that there is no vacancy.

12.As per Section 18(3) of the Act, a settlement arrived in the course of conciliation (i.e) 12(3) Settlement is binding on all parties to the dispute. Therefore, 12(3) Settlement is binding on the Petitioners which confirms that only as and when there is vacancy and subject to the rules and regulations of the 1st Respondent Corporation, the members of the 2nd Respondent Society including the Petitioners may be absorbed as permanent employees of the 1st Respondent Corporation. The learned counsel for the 1st respondent would point out that the petitioners cannot demand absorption as permanent employees of the 1st Respondent Corporation as a



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matter of right.

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13.The learned counsel for the 1st respondent in support of his submissions, relied on a decision of this Court in WP. No. 4368 of 2009 and W.P. No. 26724 of 2010 dated 26.04.2012, wherein, this court has categorically held that the said 12(3) Settlement is valid and binding on the parties. The said decision was challenged in an appeal by the Union in WA. No. 1071 and 1320 of 2012, which came to be dismissed and it was held that Section 12(3) Settlement is valid and binding on the parties.

14.Heard the learned counsel for the petitioner and the learned counsel for the respondents and this Court has perused the entire materials available on record.

15.A reading of the entire facts of this case would make it clear that the petitioners made their claim for absorption as permanent employees in the 1st Respondent Corporation with substantial delay and laches. The said claim has been rejected and the challenge to the same was dismissed by this



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court and it reached finality. Therefore, the retired employees of the 2nd respondent and their claim for absorption in the 1st respondent CPCL has already been decided by this court. At this juncture, a careful perusal of the typed set of documents in this writ petition, would go to show that the legal heirs of the petitioners are only seeking employment in the 1st respondent corporation and the said request, has been rejected by the CPCL holding that there is no vacancy. As per the orders of this court passed earlier on the same subject matter, it was clearly held that the petitioners themselves do not have any legal right for absorption as permanent employees in the 1st respondent corporation and therefore, any claim for granting employment to their legal heirs, would also consequently fail. It is always open to the petitioners' family members to participate in the recruitment process of the 1st respondent corporation with their educational qualification and this court in the exercise of powers under Article 226 of Constitution of India, cannot give direction to the 1st respondent to absorb the family members of the petitioners for employment as it will open the flood gates to other employees to seek such relief and it will lead to backdoor recruitment which



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is nothing but discrimination of the prospective candidates in seeking employment.

16. With the above observation, this court is of the considered view that the relief sought for by the petitioners cannot be granted and accordingly, this writ petition is dismissed as devoid of merits. No costs.

.06.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No
msv

To
1. The General Manager,
(Human Resources) & Secretary,
Chennai Petroleum Corporation Limited,
(Formerly MRL), Manali,
Chennai – 600 068.

2. The Special Officer,
Industrial Co-operative Service Society,
Chennai Petroleum Corporation Limited,
(Formerly Known as MRL), Manali,
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J.NISHA BANU,J.

Msv/Nvsri

Pre-Delivery order in
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