

THE HIGH COURT OF TRIPURA _A_G_A_R_T_A_L_A_

Writ Appeal 9 of 2015

1. The Oil & Natural Gas Corporation Limited,
Represented by its Manager(IR),
Corporate Industrial Relations Department,
O.N.G.C.(Tel Bhawan), Dehradun,
2. The Chief Manager(F & A)-CPF Section,
Shed No.4, Oil & Natural Gas Corporation Ltd.,
Tel Bhawan, Dehradun.
3. The Asset Manager,
Oil & Natural Gas Corporation Limited,
Tripura Asset, R & P Section,
Badharghat Complex, Agartala-799014,
4. The Director(onshore),
Oil & Natural Gas Corporation Limited,
Tripura Asset, Badharghat Complex, R & P Section,
Badharghat Complex, P.O.- ONGC, District- West Tripura.

..... *Appellants.*

- Vs -

1. Sri Gopal Chandra De,
S/. Lt. Jotish Chandra Dey,
R/o. Ujan Abhoynagar,
P.O. Abhoynagar,
P.S. East Agartala,
Agartala, District - West Tripura.
2. Sri Dilip Deb,
S/o. Bhano Deb,
R/o. Vill, P.O. & P.S.-Amtali,
District - West Tripura.
3. Sri Brajendra Chandra Debnath,
S/o. Banamali Debnath,
R/o. Vill & P.O. Siddhi Ashram,
P.S. Amtali, District- West Tripura,
4. Sri Sadhan Kumar De,
S/o. Lt. Dharendra Chandra De,,
R/o. Bhattapukur near Nivedita Sangha,
P.O. A.D. Nagar, P.S. A.D. Nagar,
Agartala, District- West Tripura,

5. **Sri Bhusan Chandra Debnath,**
S/o. Late Madan Mohan Debnath,
R/o. East Badharghat, near Roy Colony,
P.S. Amtali, P.O. Siddhi Ashram,
District- West Tripura,
6. **Sri Sankar Acharhee,**
S/o. Gopal Acharjee,
R/o. Chandina Mura,
P.O. Madhya Bhuban Ban,
P.S. West Agartala,
District- West Tripura,
7. **Sri Khokan Kumar Saha,**
S/o. Indu Bhusan Saha,
R/o. Vill & P.O.- Sekerkote,
P.S. Amtali, District- West Tripura,
8. **Sri Sudhir Ranjan Roy,**
S/o. Dhirendra Chandra Roy,
R/o. Vill, P.O. & P.S. Amtali,
near Shib Bari, District- West Tripura,
9. **Sri Chitta Ranjan Sarkar,**
S/o. Akhil Chandra Sarkar,
R/o. Shivnagar, P.O. Gajaria,
P.S. Bishalgarh, District- West Tripura.

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE U B SAHA

For the appellants : Mr. S K Deb, Sr. Advocate.
For the respondents : None.
Date of hearing &
delivery of judgment : 09.4.2015.
Whether fit for reporting : No.

JUDGMENT & ORDER(ORAL)

(*Deepak Gupta, CJ*)

This appeal is directed against the following portion of the judgment dated 6th February, 2015 passed by a learned single Judge of this Court in WP(C)449 of 2014.

“16. The petitioners prayed for regularization in Group-D posts and so, their prayer to quash Annexure-P/9, the advertisement, is without any merit. The prayer of the petitioners for their absorption as a regular employee also cannot be directed by this Court in the writ petition since they were engaged casually and not against any sanctioned post. If any future vacancy arises in Group-D services of ONGC, the regularization of the petitioners should be taken into consideration on priority basis since they have already acquired requisite qualification. They are working for last 25/26 years without break and so, the respondents should take initiative, pursuant to their promise, for regularizing them in case of any future vacancy arises in Group-D posts.”

2. The petitioners(*respondents herein*) are ‘Workmen’. Three of them are working as drivers of heavy vehicles with the Oil & Natural Gas Corporation Ltd. (*hereinafter referred to as ‘ONGC’*), two of them are working in the Auto Workshop, two are working in the Material Section, one is working in the Information Section, one is working in the Transport Section and one is working in the Forward Batch. It is not disputed that all these persons were appointed as “*Casual Labour*” as far back as 1988 or 1989. Therefore, more than a quarter of a century has elapsed since these employees were engaged in service though on casual basis. They have been working uninterruptedly since then.

3. The workmen earlier filed writ petition praying that their services be regularized and one of us (*U B Saha, J*) disposed of this writ petition holding that the matter of regularization of the petitioners was still under consideration and the authority had not

taken any decision regarding the representation of the petitioners dated 21st May, 2009. The appeal filed by the petitioners was dismissed. Thereafter, the petitioners filed WP(C)449 of 2014 which again has been dismissed but in the operative portion the learned single Judge has given a direction that if future vacancies arise in Group-D services the regularization of the petitioners should be taken into consideration on priority basis since they have already acquired requisite qualification.

4. We are indeed shocked and surprised that the ONGC should file an appeal against such an innocuous order. All that this order implies is that these employees, who have rendered more than 25 years of service to the ONGC, should be considered for regularization on priority basis *as and when* future vacancies arise. We feel that that there is nothing wrong in this portion of the order. In fact in ***Secretary, State of Karnataka and others Vs. Umadevi(3) and others, (2006) 4 SCC 1*** the Apex Court in para 53 held as follows :

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA, R.N. NANJUNDAPPA and B.N. NAGARAJAN, and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the

cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

The Apex Court gave a direction that those who have completed a 10 years of service should as a one-time measure be considered for relaxation.

5. The purpose of *Uma Devi's* case was to ensure that people who have come in through the back door are not regularized only on the ground that they have remained in service for more than 10 years. At the same time *Uma Devi's* judgment cannot be used by the employers that too employers who are State within the meaning of Article 12 of the Constitution to discriminate against such employees, not pay them adequate wages and not even considered them for regularization though they have served the employer more than 25 years. The State and Public Sector Undertakings(PSUs) are expected to be model employers. Even assuming that the original

writ petitioners were not employed after following a proper procedure then also why should poor employees at the lowest grade suffer. The appellant ONGC has apparently not taken any action against their senior officials who provided employment to these employees against the rules. The employees are lowly paid employees working at the bottom of the ladder and we are of the considered view that the learned single Judge was fully justified in issuing the directions.

6. In this view of the matter, we find no merit in the appeal which is dismissed in *limine* and with costs of Rs.1,00,000/-. Exemplary costs have been imposed because a huge public sector organization has thought it fit to waste its own time, energy and resources, pay huge fees and also waste the time of this Court. Such orders should be accepted in the spirit of which they have been issued and the PSUs are expected to be more considerate towards their employees.

JUDGE

CHIEF JUSTICE

Sukhendu