

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-10-2015

CORAM:

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P. No.10410 of 2012

S.Murugan

... Petitioner

Versus

The Chairman and Managing Director
Neyveli Lignite Corporation,
Neyveli, Cuddalore District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent herein to consider petitioner's representation dated 12.8.2009 as per direction of this Hon'ble High Court, made in W.P.No.3617/93, dated 21.10.1997, as confirmed in W.A.No.1486/97 by order dated 8.9.2008 and provide employment to me commensurate with petitioner educational qualification.

For petitioner : Mr.K.Govindaraj

For respondent : Mr.N.A.K.Sarma &
Mr.N.Nithianandam

ORDER

Heard the learned counsel appearing for the petitioner, as well as the learned counsel appearing on behalf of the respondent.

2. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondent to consider the representation of the petitioner, dated 12.8.2009, as per the direction issued by this Court, in its order, dated 21.10.1997, made in W.P.No.3617 of 1993.

3. The main contention of the learned counsel appearing on behalf of the petitioner is that this Court had passed an order, dated 21.10.1997, in W.P.No.3617 of 1993, directing the respondent herein to give the petitioner an employment in the respondent Corporation, as the land belonging to the family of the petitioner had been acquired by the respondent Corporation. Without obeying the order passed by this Court in W.P.No.3617 of 1993, the respondent Corporation had filed a Writ Appeal, before a Division Bench of this Court, in W.A.No.1486 of 1997. The Writ Appeal had been closed noting that the court notice could not be served on the petitioner as he had gone abroad.

4. The learned counsel appearing on behalf of the petitioner had filed an affidavit before this Court, dated 20.7.2012, stating that he does not possess a passport in his name. He had not gone abroad as noted by the Division Bench of this court, in W.A.No.1486 of 1997. In such circumstances, the petitioner has submitted a representation to the respondent Corporation, dated 12.8.2009, asking the Corporation to employ him, as per the direction issued by this court, in W.P.No.3617 of 1993.

5. A counter affidavit had been filed on behalf of the respondent Corporation denying the averments made by the petitioner in the affidavit filed in support of the Writ Petition. The learned counsel appearing on behalf of the respondent Corporation had submitted that the court could not serve on the petitioner, who is the first respondent in the Writ Appeal, in W.A.No.1486 of 1997. The Writ Appeal had been closed, by an order passed by this court, on 8.9.2008, in W.A.No.1486 of 1997, stating that the petitioner had gone abroad. It would not be open to the petitioner to claim that he should be employed in the respondent Corporation, after a period of over 12 years, from the date of the order passed by this court, in W.P.No.3617 of 1993. Further, the petitioner had not made any representation before the respondent Corporation, pursuant to the order passed by this Court, in W.P.No.3617 of 1993. No contempt petition had been filed against the respondent Corporation for its failure to implement the order passed by this Court, in W.P.No.3617 of 1993. In such circumstances, the petitioner has no right to seek employment in the respondent Corporation, based on the order passed by this Court, on 21.10.1997, in W.P.No.3617 of 1993.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is clear that the petitioner did not

approach the respondent Corporation for employment, even though an order had been passed in his favour, by this court, on 21.10.1997, in W.P.No.3617 of 1993. In the Writ Appeal filed by the respondent Corporation, the Division Bench of this court had observed in its order, dated 8.9.2008, made in W.A.No.No.1486 of 1997, that the petitioner had gone abroad. Further, the petitioner had not opted to reopen the Writ Appeal, in W.A.No.1486 of 1997, to contest the same on merits. The representation made by the petitioner, dated 12.8.2009, is belated in nature. In such circumstances, this court is of the considered view that the petitioner has lost his right to claim employment in the respondent Corporation, pursuant to the order passed by this Court, in W.P.No.3617 of 1993. Hence, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

csb

To

The Chairman and Managing Director
Neyveli Lignite Corporation,
Neyveli, Cuddalore District.

+1cc to Mr.N.A.K.Sarma, Advocate, S.R.No.55004
+1cc to Mr.K.Govindaraj, Advocate, S.R.No.55285

W.P. No.10410 of 2012

SKV(CO)
CA(20/11/2015)

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