HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.920 and 933 of 2014

Date: 01-6-2015

Between

Kandula Satyanarayana
and another

… Petitioners

and

ONGC Ltd.,
Rajahmundry Asset,
Godavari Bhavan, Base Complex,
Rajahmundry 533 106,
Rep. by its Asset Manager;
and another

… Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.920 and 933 of 2014

Common Order:

Since common questions of law and fact would arise for consideration, these two writ petitions are disposed of by a common order.

2. Pursuant to the Advertisement dated 28-3-2011 issued by the Oil and Natural Gas Corporation Limited (ONGC) inviting applications for 245 Field Operator posts,

the petitioners applied and were issued call letters dated 29-9-2011 to attend the written examination proposed to be held on 30-10-2011. The petitioners passed the examination and all the tests, and were found eligible to be appointed as Field Operators. Appointment orders dated 25-5-2012 appointing them as Field Operators for a period of 4 years on tenure basis were issued to them. They reported to duty on 29-5-2012 and were working as such. The petitioner in W.P.No.920 of 2014 (Kandula Satyanarayana) submitted experience certificate dated 07-4-2011 and the petitioner in W.P.No.930 of 2014 (Dharavathu Balakrishna) submitted experience certificate dated 05-4-2011 issued by
M/s. K.V.V. Ramana, V.V. Nagar, Mallayyapeta, Rajahmundry. It is mentioned in the certificate produced by Kandula Satyanarayana that he worked with the said company in ONGC Base Complex, Rajahmundry from
01-9-2005 to 01-12-2010 for the D.G. Set rating as
a D.G. Operator. It is mentioned in the certificate produced by Dharavathu Balakrishna that he worked with the said company in ONGC Base Complex, Rajahmundry from 01-10-2005 to 31-01-2011 as
a D.G. Operator in Get Sets.

3. Show cause notices dated 17-10-2013 were issued to the petitioners by the ONGC stating that the officer concerned at ONGC, Rajahmundry vide letters

dated 03-9-2013 and 03-10-2013 respectively stated that on verification from the records of October, 2007 to March, 2008, the names of the petitioners did not appear in the duty roster during the above period and that the contractor M/s. K.V.V.Ramana did not respond to the registered letter dated 22-8-2013 and reminder letter dated 06-9-2013 to confirm the genuineness of the experience certificates and further, the petitioners were directed to show cause as to why their services in ONGC should not be terminated in terms of Clause H(v) of the terms and conditions of appointment order dated
25-5-2012 and further directed to give reply along with all supporting documents in support of their work and experience certificates. Kandula Satyanarayana submitted explanation to the show cause notice on
08-11-2013 along with confirmation of experience certificate dated 29-11-2013 issued by the contractor and Dharavathu Balakrishna submitted explanation to the show cause notice on 06-11-2013 along with clarification letter issued by the contractor M/s. K.V.V.Ramana.

4. In the respective explanations, both the petitioners stated that they worked under M/s. K.V.V. Ramana during the relevant period, the contractor issued them the experience certificates copies of which were submitted to ONGC at the time of appointment as Field Operators. After receiving the show cause notices they

approached the contractor for clarification and the contractor in turn informed them that he had already given necessary clarification in this regard to ONGC several times and issued them letters stating that the certificates issued by him are genuine. It is further submitted that the contractor also addressed letters to the authorities of ONGC confirming that the certificates in the names of the petitioners have been issued by him and that the certificates are genuine.

5. According to the petitioners, without considering the explanations submitted by them and without affording them opportunity and without conducting any enquiry, their services were terminated. The version of the petitioners is that the order of termination with a bar of future employment in a work centre of ONGC is illegal and is liable to be set aside in the writ petitions.

It is further submitted that the reasoning given in the impugned order that the petitioners could have produced other documents viz., employment letters, wage slips/ salary certificates, proof of any remittances towards ESO/PF, copies of identity cards or any other material in support of their claim that they have worked with the employer is wholly illegal and arbitrary. In this regard they stated that the contractor did not enroll their names in the PF records for which they cannot be penalized as it is obligatory on the part of the contractor to comply with the

statutory requirements but they were not given any appointment orders and wage slips. For the said reason they could not submit the said documents along with the explanation to the show cause notices. It is contended by the petitioners that though the respondents-ONGC has power under para H(v) of the terms and conditions of the appointment orders to terminate the services of the petitioners without assigning any reasons, it does not mean that their services can be terminated without assigning any reasons and without following the principles of natural justice.

On the aforementioned grounds, they sought to set aside the termination orders.

6. In the counter affidavit filed by the respondents-ONGC, it is contended, *inter alia*, as follows:

Even according to the petitioners, the respondents-ONGC are entitled and obligated to verify the genuineness of the certificates produced by them and has got the authority under the terms and conditions and the appointment letters to terminate the services of the petitioners without assigning any reasons if the experience/qualification certificates are found to be not genuine. The petitioners were put on notice and were given ample opportunity to submit their explanation along with all supporting documents in support of their work experience/previous employment to enable them to

substantiate and prove the genuineness of the certificates produced by them, they sought time to submit their explanation and accordingly submitted the explanation with certain documents. However, they failed to submit any cogent material such as PF or ESI record or appointment or discharge letters from their previous employer or Form 16 or any other relevant, valid and tenable documents in support of their previous employment/experience. One of the essential conditions for appointment to the post of Field Operator is 5 years experience in oil exploration and production (E&P) industry. In proof of having the said experience, the petitioners submitted experience certificates issued by M/s. K.V.V.Ramana, Contractor, stating to have worked for Diesel Generator Sets of 600 KVA and 500 KVA in Narsapur Base, ONGC, Rajahmundry executed by the said agency.

7. Clause H(v), which is one of the general terms and conditions of the appointment of the petitioners reads as under:

> "Your engagement of tenure basis shall be subject to verification of Character and Antecedents, Education Certificates, Caste Certificates and all other certificates to the satisfaction of ONGC and if found unsatisfactory or not genuine at any time, ONGC will have full right and entitlement to terminate your services without assigning any reason or notice or enquiry thereof at any time."

8. As required by the said condition, the experience

certificates produced by the petitioners have been taken up for verification and their past employer, who issued the said certificates, was asked to confirm the genuineness of the said certificates by addressing letters and the past employer has not replied to the said letters either confirming or denying the same. Thereafter, the certificates were forwarded to the user department i.e.
LM – Maintenance Section of ONGC where the alleged experience has been obtained by the petitioners.
The Sectional Head, LM – Maintenance stated that the ONGC, Narsapur Base did not have any such Diesel Generator set rating of 600 KVA and 500 KVA where the petitioners claimed to have worked and gained experience for the period mentioned in the certificates and stated that 200 KVA Generating Set owned by ONGC was in operation in Narsapur Temple Land Office. He further stated that one 15 KVA Diesel Generator Set was hired as a standby power supply at Narsapur during the relevant period and as per the records, the petitioners were not deployed for the operation of the Diesel Generator Sets at Narsapur Base by the contractor K.V.V. Ramana.
As the experience stated by the individuals is not proved to be genuine to the satisfaction of ONGC, the ONGC issued show cause notices calling upon the petitioners to submit their reply along with all supporting documents in proof of their work experience. As the experience stated by the individuals is not proved to be genuine to the

satisfaction of ONGC, the ONGC after considering all the materials and explanation received from the petitioners issued the termination notices dated
20-11-2013 in terms of Clause H(v) of the appointment orders.

Contending as above, the respondents-ONGC sought to dismiss the writ petitions.

9. I have heard Sri G.Vidya Sagar, learned Senior Counsel for the petitioners and Sri E.Manohar, learned Senior Counsel for the respondents-ONGC.

10. The contention of the petitioners is that the certificates of experience produced by them are genuine and without following the principles of natural justice and without conducting any enquiry, terminating their services is illegal.

11. On the other hand, it is contended on behalf of the respondents-ONGC that show cause notices seeking explanations from the petitioners were issued and after receiving explanations and having found that the certificates submitted by the petitioners are not genuine, the services of the petitioners were terminated and therefore, the order of termination does not require any interference.

12. Clause H(v) of the general terms and conditions

of the appointment of the petitioners shows that the engagement of the petitioners is on tenure basis and shall be subject to verification of character and antecedents, Education Certificates, Caste Certificates and all other certificates to the satisfaction of ONGC and if found unsatisfactory or not genuine at any time, the ONGC will have full right and entitlement to terminate their services without assigning any reason or notice or enquiry thereof at any time.

13. Therefore, according to the said clause, if the certificates of experience submitted by the petitioners are found unsatisfactory or not genuine, the ONGC can terminate their services without assigning any reason or notice or without conducting any enquiry. The ONGC, as there was no proper response from the contractor, who issued the experience certificates to the petitioners, referred the certificates to the user department i.e. LM – Maintenance Section of ONGC where the petitioners allegedly worked under the contractor and the ONGC in turn received the information that the petitioners did not work in the said section at relevant time. The ONGC also was not satisfied with the documents submitted by the petitioners regarding their experience along with the explanation to the show cause notices. Since the petitioners are abide by Clause H(v) of the general terms and conditions of the appointment of the petitioners,

it is not open for them to contend that before terminating their services, the ONGC has to conduct an enquiry.
As per the said clause, if the ONGC is not satisfied with the experience certificates produced by the petitioners,
it can straightaway terminate their services without assigning any reasons and without even issuing notice.

14. In the instant case, the ONGC issued show cause notices and afforded opportunity to the petitioners to submit their explanations along with the documents available with them. The ONGC was not satisfied with the documents furnished by the petitioners along with their explanations and also took into consideration the report submitted by the Sectional Head of
LM – Maintenance Section of ONGC, Narsapur Base and arrived at a decision that the experience certificates produced by the petitioners are not genuine. Therefore, the decision of ONGC cannot be said to be arbitrary or without any basis. There is enough material with the ONGC for arriving at the decision that the experience certificates produced by the petitioners are not genuine.
As Clause H(v) of the general terms and conditions of the appointment of the petitioners enables the ONGC to terminate the service of the petitioners if it not satisfied with the experience certificates produced by them, the impugned order of termination cannot be called in question as the same was passed by assigning cogent

reasons as to the circumstances in which the ONGC found the certificates were not genuine.

15. The writ petitions, therefore, fail and are dismissed. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

_____

R.KANTHA RAO, J.

01st June, 2015.
Ak

HON'BLE SRI JUSTICE R.KANTHA RAO

\-
\-
\-
\-
\-
\-
\-
\-

Writ Petition Nos.920 and 933 of 2014
(Common Order)

01st June, 2015.
(Ak)