

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.20566 OF 2009

DATED:7-10-2015

Between:

P. Mohini Devi ... Petitioner

And

The Chairman & Managing Director

Oil & Natural Gas Corporation (ONGC) Ltd.,

Jeevan Bharathi Tower-II

Connaught Circus

New Delhi

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. B. Sree Rama Krishna

COUNSEL FOR THE RESPONDENTS: Mr. E. Monohar, Senior Counsel,

For Mr. Kakara Venkata Rao

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to declare the inaction of the respondents in absorbing the petitioner into regular service of the respondents along with the petitioners in W.P. Nos.13551 of 1997 and batch, in pursuance of order dt.24.09.1998 and report dt.30.12.1998 of the Regional Labour Commissioner (Central) Hyderabad, dt.30.12.1998, as illegal and arbitrary. The petitioner also sought for a consequential direction to the respondents to absorb her into their

regular service.

2. I have heard Mr. B. Sree Rama Krishna, learned counsel for the petitioner, and Mr. E. Manohar, learned Senior Counsel appearing for the respondents, and perused the record.

3. This case has a chequered history. The petitioner along with several others have filed a batch of writ petitions vide W.P. No.26677 of 1997 and batch assailing the action of the respondents in not absorbing them as regular employees. By judgment dt.24.9.1998, this Court has disposed of the said writ petitions with several directions following the ratio laid down by the Supreme Court in *Air India Statutory Corporation v. United Labour Union* to the effect that those persons who were appointed prior to the notification dt.8.9.1994 prohibiting employment of contract labour in various works specified therein are entitled to be absorbed as regular employees. This Court has *inter alia* directed the Regional Labour Commissioner (Central) Hyderabad, to verify the claims of each of the petitioners as to whether they were employed prior to 8.9.1994 and if so whether they belong to the prohibited category of contract labour or not.

4. The Regional Labour Commissioner (Central) has accordingly undertaken a detailed verification and submitted his report dt.30.12.1998. He has stated in his report that the petitioner was appointed on 1.9.1996, i.e., much after 8.9.1994, the cut off date stipulated for consideration for appointment. As a consequence of the said report, the petitioner was not absorbed by the respondents. She has filed W.P. No.26175 of 2006 wherein the following prayer was made.

*“...to issue a Writ, order or Direction, more particularly one in the nature of writ of Mandamus declaring the inaction of the respondents in considering the representations made to them by the petitioner seeking absorption into the regular services of the respondent organization in the light of this Hon'ble high Court's Judgment and order dated 24-09-1998 passed in WP Nos. 13551, 26676, 26677, 26678 and 27747 of 1997 and consequently submitted report of the Regional Labour Commissioner (Central) Hyderabad as illegal, arbitrary, discriminatory and against the equity, conscience and natural justice besides violation of Articles 14, 16, 19 and 21 of the Constitution of India and consequently direct the respondents to implement the Judgment and order dated 24-09-1998 passed in WP Nos. 13551, 26676, 26677, 26678 and 27747 of 1977 for absorption of the petitioner into their regular services with all back wages etc. from the date of her actual entitlement which was unduly not considered by the respondents.”*

5. By order dt.17.10.2008, this Court has dismissed the writ petition as withdrawn. For proper appreciation, it is necessary to reproduce the said order hereunder:

*“After advancement of elaborate arguments on either side, learned counsel for the petitioner*

*seeks permission to withdraw the writ petition enabling the petitioner to approach the Labour Court and work out her remedies, as available under the law.*

*In view of the same, permission is accorded.*

*The writ petition is accordingly dismissed as withdrawn, leaving liberty to the petitioner to approach the Labour Court-cum-Industrial Tribunal and work out her remedies, as available under the law. No order as to costs.”*

6. Interestingly, within one year of the dismissal of Writ Petition No.26175 of 2006, the petitioner has filed the present writ petition for the same relief which was claimed in the previous writ petition. No whisper is made by the petitioner in her affidavit as to the reason for her to file the present writ petition, despite the fact that she has withdrawn the previous writ petition with liberty to approach the Labour Court for working out her remedies.

7. As rightly submitted by Sri E. Manohar, learned Senior Counsel appearing for the respondents, having withdrawn Writ Petition No.26175 of 2006 with specific permission from this Court to approach the Labour Court for working out her remedies, the petitioner is not entitled to file the present writ petition contrary to the order in the said writ petition. If the petitioner found any justifiable reasons for not approaching the Labour Court, the least that is expected from her is to explain those reasons in the affidavit. At any rate, unless order dt.17.10.2008 in W.P. No.26175 of 2006 is reviewed and the petitioner is permitted to file a fresh writ petition instead of approaching the Labour Court, the present writ petition is not maintainable.

8. Even on merits of the case, I do not find any reason to grant any relief to the petitioner. As noted hereinbefore, the Regional Labour Commissioner (Central) has categorically found that the petitioner was appointed for the first time on 1.9.1996 as skilled labour, i.e., after issue of notification dt.8.9.1994. On the application of the ratio of the judgment in *Air India Statutory Corporation* (supra) as followed in W.P. No.26676 of 1997 filed by her along with others, the petitioner would have been entitled for absorption only if she was engaged prior to 8.9.1994. In this view of the matter, even on merits, the petitioner is not entitled to any relief.

9. For the above mentioned reasons, the writ petition is wholly without any merit and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. Nos.26816 of 2009 and 35478 of 2014 shall stand disposed of as infructuous.

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07-10-2015 C.V. NAGARJUNA REDDY, J

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