

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

Coram

The Hon'ble Mr. Justice T.RAJA

W.P. No.38556 of 2015

R.Geetha

... Petitioner

Vs

- 1.The Union of India,
Rep. By its Secretary to the Government,
Petroleum and Natural Gas Department,
New Delhi.
 - 2.The Chairman,
Indian Oil Corporation Limited,
Scope Complex, Core-2,
No.7, Institutional Area,
Loadhi Road, New Delhi - 110 003.
 - 3.The General Manager (HR),
Indian Oil Corporation Limited,
Marketing Division, Southern Region,
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai - 600 034.
 - 4.The Executive Director,
Indian Oil Corporation Limited,
Southern Regional Office,
No.139, Nungambakkam High Road,
Chennai - 600 034.
- ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus to call for the records pertaining to the impugned order dated 18.06.2014 on the file of the third respondent, quash the same and issue consequential direction directing the respondents to reinstate the petitioner's son Mr.Ravi in service by considering his period of absence as break in service due to unavoidable circumstances and humanitarian necesscity in view of my adanced age andill health and the imperative need for life time sustenance and medical are for my two dependent disabled children if it is not possible for any reason they may be directed to permit the petitioner to avail of the benefit of post-retirement medical attendance facility on one time payment

of Rs.698/- extended for the rehabilitation of the family of the employee while in service and also the petitioner may be extended on payment of necessary contribution of the benefit of ex-gratia payment introduced by the respondents in the year 2003, by considering the petitioner's representation dated 01.06.2014.

For petitioner .. Mrs.R.Geetha, Party-in-person
Mr.K.Venkatramani, SC
appointed as amicus curiae
For Respondents.. Mr.V.Karthick
for M/s.T.S.Gopalan&Co.for R2 to R4
No appearance for R1

O R D E R

By way of filing this writ petition, the petitioner/party-in-person seeks to quash the impugned order dated 18.06.2014 passed by the third respondent / the General Manager (HR), Indian Oil Corporation Limited, Chennai, in and by which the request of the petitioner seeking re-employment to her son/Mr.R.Ravi was rejected on the ground that an employee who resigned from the services of the Corporation will not be considered for re-employment as per the policy conditions of the respondent Corporation.

2. Mr.K.Venkataramani, learner Senior counsel was appointed as amicus curiae on 04.02.2016 to assist this Court on behalf of the petitioner / party-in-person. Subsequently, the learned Senior counsel was relieved on 04.03.2016 on his request.

3. The petitioner's husband Mr.E.R.Ragupathy, who was appointed as Typist/Clerk by the respondent Corporation, died on 21.06.1995 after rendering 29 years of unblemished service, leaving behind the petitioner, three sons and a daughter, of which the last two children are physically handicapped from their birth with 90% and 80% disability respectively. After the demise of the petitioner's husband, the respondents, through their letter dated 23.06.1995, offered her two options under the scheme for rehabilitation of the family of the employee who died while in service. The first one was to join the Post-Retirement Medical Attendance Facility on a one time payment of Rs.698/- for self and the dependent children and that another one was that employment to her dependant son or daughter eligible for service. Out of three options available under the Scheme, the petitioner had chosen option No.3 i.e. employment to her dependant son-Mr.R.Ravi and accordingly, her second son Mr.R.Ravi was provided employment as Typist/Clerk based on his qualification at the Southern Regional office, Chennai, on 18.01.1996. However, due to sudden tragic circumstances, her eldest son Mr.Mohan, who was working in Sundaram Finance

Limited, passed away on 26.09.1999, therefore, due to sudden demise, the petitioner along with her second son Mr.R.Ravi were forced to attend to the needs of the other two handicapped children for bathing, clothing, taking food, timely medicine, etc., therefore, in view of such compelling circumstances, the petitioner's second son Mr.R.Ravi, after 4 years of service in the respondent Corporation, tendered his resignation on 27.12.1999 and the same was also accepted by the respondent Corporation with effect from 27.12.1999. However, after the resignation from service, they were unable to meet out the medical expenses of the two handicapped children as well as the petitioner, hence, the petitioner made a representation dated 01.06.2014 requesting the respondent Corporation to reinstate her second son in the services of the respondent Corporation. However, the said request of the petitioner was rejected on the ground that as per policy conditions of the respondent Corporation, an employee, who resigned from the services of the Corporation, will not be considered for re-employment under any circumstances and again it has rejected the further request of Post Retirement Medical assistance for self.

4. Assailing the said impugned order, Mr.K.Venkataramani, learned Senior counsel, who was appointed as amicus curiae on behalf of the petitioner/party-in-person to assist this Court, submitted that the respondents failed to take note of the fact that the dependants of the deceased employee, who needed sustenance and medical assistance included not only the 71 year old spouse, but also the two children disabled from birth of their life time, therefore, the impugned order passed by the respondents rejecting the request of the petitioner seeking reinstatement of her second son in service will have to be set aside.

5. Learned Senior counsel further submitted that though the petitioner made numerous representations to the respondent Corporation delineating her sorry plight and indigent circumstances of her family and thereby prayed for reinstatement of her second son back into service, all went in vain, however, the third respondent finally, vide letter dated 18.06.2014, rejected her claim citing that an employee, who has resigned from service, will not be considered for re-employment under any circumstances and also ruled out the further request for Post-Retirement Medical Assistance and thus, the petitioner has been deprived of the fundamental rights of leading her life peacefully. Therefore, on this score, learned Senior counsel stated that since the petitioner is deprived of reinstatement of service as well as ex-gratia payment, a double jeopardy has been inflicted, hence, learned Senior counsel prayed for setting aside the impugned order.

6. Per contra, Mr.V.Karthick, learned counsel appearing for the respondents 2 to 4, by filing a detailed counter affidavit, submitted that the petitioner's husband expired on 21.06.1995 while in service. Thereafter, as per the Superannuation Benefit Fund Scheme of the Corporation, which provides for rehabilitation of the family of an employee dying in service, the petitioner's second son / Mr.R.Ravi was given appointment on compassionate ground on 18.01.1996, by receiving a request letter from the spouse of the deceased employee. However, after four years of service, Mr.R.Ravi tendered his resignation on 27.12.1999 and he was relieved with effect from 27.12.1999 by the respondent Corporation vide communication dated 25.07.2001. Now, after a period of 14 years, the petitioner has filed the present writ petition seeking re-employment, therefore, the same will have to be dismissed on the ground of laches.

7. Learned counsel for the respondents further stated that as per the policy of the respondent Corporation, they are required to maintain the records of employees only for three years from the date of separation or settlement of issues. Therefore, by following the said policy, the documents relating to Mr.E.R.Raghupathy, husband of the petitioner and Mr.R.Ravi, son of the petitioner, were destroyed in the year 2012 itself, hence, the respondent Corporation is not in possession of any of the documents. Thus, on this score, learned counsel prayed this Court not to entertain the writ petition, which was filed after a period of 14 long years as the same is hit by delay, inaction and laches.

8. It is further contended by the learned counsel for the respondents that in the event of death of an employee, the above said Scheme provides for three options, therefore, on the demise of an employee, the family/legal heir of the members is required to exercise any one of the following three options;

- a) payment of a monthly recurring superannuation benefit to the spouse / family;
- b) full salary last drawn by the employee till the date of his retirement along with superannuation benefits; and lastly
- c) to provide employment to the dependant son or daughter within three years of death of the employee.

In the case on hand, the petitioner has exercised option No.3 i.e. employment to her second son-Mr.R.Ravi and accordingly, he was appointed as Typist/clerk in the respondent Corporation on compassionate ground. Therefore, he pleaded, having exercised

such an option in terms of the said Scheme, now she cannot have any right for any relief, for, as per the said Scheme, once an option is exercised, the same is irrevocable. Thus, the writ petition filed by the petitioner after a period of 14 years seeking re-employment cannot be entertained by this Court.

9. It is further submitted by the learned counsel for the respondents that the respondent Corporation, being a public sector organization, is required to act in a just and fair manner and will have to adopt uniform approach. Thus, he pleaded, if it deviates from the above said Scheme which has been in force from 1987, especially in the absence of any legal right in favour of the petitioner, the same would result in facing of similar claims from various parts of the Country by the respondent Corporation causing grave prejudice to the Corporation, hence, on this score, he prayed for dismissal of the writ petition.

10. Heard the learned counsel appearing on either side and perused the materials available before this Court.

11. It is not in dispute that the petitioner's husband, while in service of the respondent Corporation, died on 21.06.1995. It is also not in dispute that in the event of death of an employee, the Superannuation Benefit Fund Scheme of the Corporation provides for three options, in which the family of the deceased employee is required to exercise any of three options extracted above. In the case on hand, the petitioner exercised option No.3 i.e. employment to her second son / Mr.R.Ravi. On receiving such request, the respondent Corporation had appointed the petitioner's second son / Mr.R.Ravi as Typist/Clerk in Southern Regional Office, Chennai, on 18.01.1996. However, after 4 years of service, he tendered his resignation on 27.12.1999.

12. At this juncture, it is the contention of the petitioner/party-in-person that due to the sudden demise of her first son, who was employed in Sundaram Finance Limited, her second son was forced to resign from his job so as to take care of the two handicapped siblings and also the ailing aged mother, hence, he should be once again reinstated in service as he was unable to meet out the day to day expenses as well medical expenses. Such a contention, in my view, cannot be accepted, for, the respondent Corporation, being a Public Sector Organization, is required to act in a just and fair manner as per the above said Scheme, which has been in force from 1987 onwards. The petitioner, after perusing the above said three schemes, had exercised option No.3 i.e. employment to her second son/Mr.R.Ravi, accordingly, compassionate appointment was given and he worked for 4 years. Later on, he resigned on his own volition. Therefore, after resigning from service in the year

1999 itself, now, she cannot seek to re-exercise her option, that too, after a lapse of 16 years.

13. Another contention of the petitioner/party-in-person is that upon the demise of the first son on 26.09.1999, who had worked in Sundaram Finance Limited, the petitioner, being an old woman aged about 72 years, was unable to attend to the needs of the other two handicapped children, therefore, in view of such compelling circumstances, the second son was forced to resign from the services of the respondent Corporation in the year 1999 so as to take care of her and the other two handicapped children. Such a contention also does not appeal to this Court, for, the petitioner and her second son, in my view, ought to have made some alternative arrangement by appointing "Ayah" to take care of the two handicapped children. However, without opting for such an alternative method, resignation of the petitioner's second son/Mr.R.Ravi from the services of the respondent Corporation obtained on compassionate ground would show that the petitioner's family wilfully deprived of their benefit of appointment given on compassionate ground by the respondent Corporation, therefore, she cannot again claim reinstatement after a lapse of 16 years. If such a claim of the petitioner is allowed, the same would open a flood gate for claiming similar relief, which would create severe legal complications for the respondent Corporation in various parts of the Country. Resultantly, the larger interest of the public section undertaking would be put to grave and irreparable injury.

14. Hence, in the light of the above said factual position, the prayer made by the petitioner in the present writ petition seeking reinstatement of her second son cannot be entertained by this Court. Accordingly, the writ petition fails and the same is dismissed. No Costs.
rkm

s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Secretary to the Government,
Petroleum and Natural Gas Department,
New Delhi.

2.The Chairman,
Indian Oil Corporation Limited,
Scope Complex, Core-2,
No.7, Institutional Area,
Loadhi Road, New Delhi - 110 003.

3.The General Manager (HR),
Indian Oil Corporation Limited,
Marketing Division, Southern Region,
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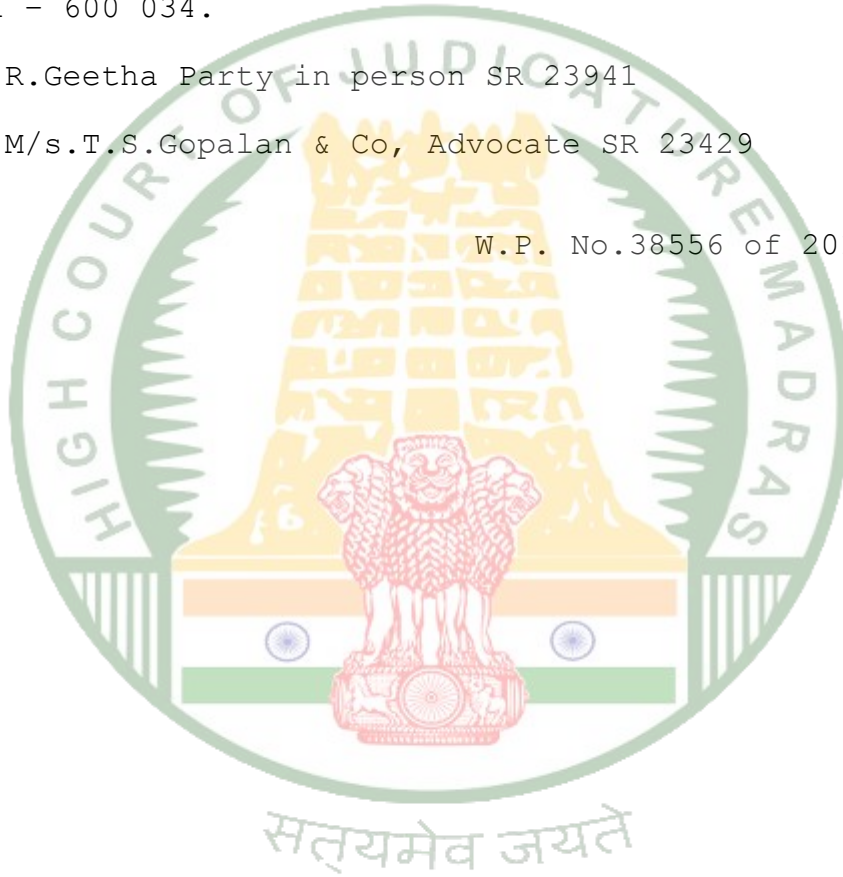
4.The Executive Director,
Indian Oil Corporation Limited,
Southern Regional Office,
No.139, Nungambakkam High Road,
Chennai - 600 034.

+ 1 cc to R.Geetha Party in person SR 23941

+ 1 cc to M/s.T.S.Gopalan & Co, Advocate SR 23429

svi(co)
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