

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

WRIT APPEAL No.88 of 2016

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JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The unsuccessful petitioner in W.P.No.20566 of 2009 is in appeal. By order dated 07.10.2015, a learned Judge dismissed the said writ petition.

Perusal of the order under appeal reflects that the writ petitioner had earlier filed W.P.No.26175 of 2006 in relation to her grievance that the respondent organisation was not absorbing her in regular service. However, the said writ petition was dismissed as withdrawn by order dated 17.10.2008 leaving it open to the writ petitioner to approach the Labour Court-cum-Industrial Tribunal to work out her remedies as available under law. Having resorted to this course of action, the writ petitioner again filed the subject writ petition, W.P.No.20566 of 2009, ventilating her grievance as to the failure on the part of the respondent organisation in absorbing her in regular service. The learned Judge rightly took into account the fact that the writ petitioner had earlier filed W.P.No.26175 of 2006 for the same relief but chose to withdraw the same seeking leave to approach the Labour Court-cum-Industrial Tribunal to work out her remedies. On that ground, the learned Judge held that the writ petition was not maintainable. To this extent, the order under appeal does not warrant interference. However, we notice that having observed that the writ petition was not maintainable on this count, the learned Judge went on to deal with the matter on merits and, in para 8 of the order under appeal, set out the reasons as to why the writ petitioner would not be entitled to relief even on merits.

Having relegated the writ petitioner to an alternate remedy in terms of the earlier order passed in W.P.No.26175 of 2006 and having held that W.P.No.20566 of 2009 was not maintainable on this count, the learned Judge ought not to have entered into the merits of the matter as that would practically shutout further remedies, if any, available to the writ petitioner before the Labour Court-cum-Industrial Tribunal.

We therefore set aside the order under appeal only to the extent of para 8 thereof. It would be open to the appellant-writ petitioner to take recourse to the liberty granted to her under the order dated 17.10.2008 passed in W.P.No.26175 of 2006 and avail appropriate remedies in accordance with law.

The writ appeal is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

Date:27.06.2016

GJ