

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT APPEAL No. 11 OF 2016

J U D G M E N T : *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This Writ Appeal is directed against the order passed by the learned Single Judge in Writ Petition No. 24413 of 2005 instituted by this very appellant - petitioner seeking a declaration that the action of the respondents in passing orders on 06.10.2015 declaring the petitioner as not eligible for regularization, as bad in law and consequently, to set aside the same. The petitioner also sought for a direction to the respondents to appoint him as an L.D. Clerk, pursuant to the policy decision contained in B.P.Ms. No. 36, dated 18.05.1997.

From internal page 3 of the order passed by the learned Single Judge, which is the only material, which has been placed before us for consideration in this Writ Appeal, we find that the learned Single Judge has adverted to the fact that the respondents have awarded a work, value of which is Rs. 20,000/-, to a contractor, who completed the work in five days time by engaging seven contract labour. As against seven persons said to have been engaged by the contractor, as many as 20 people have laid a claim seeking consideration of their cases. In those set of circumstances, the learned Single Judge has arrived at a finding that the scheme, which the respondents have announced for the purpose of consideration of the cases of the erstwhile contract labour into regular establishment, cannot be implemented in the case of the petitioner - appellant herein, inasmuch as that would amount to a lopsided view of leaving the cases of those contract labour, who have rendered continuous service for large extents of periods to the respondents. In that view of the matter, the learned Single Judge has dismissed the Writ Petition.

Ms. R. Annapurna, learned counsel for the appellant would contend before us that the same contractor was awarded two different works, whereas, by mistake, the respondents have taken into account and consideration one work, value of which is less than Rs.20,000/-, leaving aside the award of the other work, by virtue of which the petitioner - appellant has staked a claim.

In this connection, all we need to record is that there is no material placed before us to come to any other conclusion. Consequently, the scope of our scrutiny has got to be confined only to the issue as to “whether the learned Single Judge, in the given facts and circumstances, has arrived at inaccurate finding of fact at all for us to interfere with the said exercise of discretion by him”. In the absence of any material on record vouching to the fact that the appellant herein has rendered service much prior to the policy decision announced by the respondents for absorption/consideration of the casual labour against regular vacancies in the establishment, we cannot find fault with the exercise of discretion carried out by the learned Single Judge. It is a settled principle of law that when once the exercise of discretion is indulged in by the learned single Judge, while examining an in-house Appeal, it is not proper for us to substitute our opinion to that of the learned Single Judge, all the more so in the absence of any material, which can be taken into account and consideration having not been placed on the record of the case.

Hence, we do not find any justifiable reason. The Writ Appeal accordingly, stands dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

21st March 2016

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