

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-11-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11361 of 2014

And

M.P.Nos.1 of 2014 and 1 of 2015

N.Ramu

..

Petitioner

-vs-

The Chairman-cum-Managing Director,
Neyveli Lignite Corporation Limited,
Corporate Office,
Block-I,
Neyveli.

..

Respondent

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records from the respondent relating to the impugned show cause notice in Memo No.TPS-11/HR/DA.7351/226/2014 dated 3.4.2014 and quash the same.

For Petitioner - Mr.R.Rajaram

For Respondent - Mr.N.Nithianandam

ORDER

The relief sought for in this writ petition is to call for the records from the respondent relating to the impugned show cause notice dated 3.4.2014 and quash the same.

2. The writ petitioner is employed as a Technician Grade-I in the respondent-Corporation. On account of certain allegations in respect of suppression of fact and false information in order to secure employment in the respondent-Corporation, a show cause notice was issued to the writ petitioner in memo dated 3.4.2014.

3. On a perusal of the impugned memo, it is stated that the writ petitioner submitted his explanation/objection, within ten days from the date of receipt of the said memo. Instead of submitting his explanations/objections, the writ petitioner moved this Court by filing the present writ petition under Article 226 of the Constitution of India.

4. The learned counsel for the writ petitioner states that the writ petitioner has secured appointment in accordance with the rules and the action of the respondents are unnecessary. Further, the writ petitioner states that the writ petitioner was given appointment order dated 27.7.1991 and in that order also, there was nothing about the employment of the family members. At the time of filling up the Attestation Form, the writ petitioner has given the details and there was no column requiring the writ petitioner to give the details of the family members employed in the respondent-Corporation. Therefore, this Court is of the opinion that he has not suppressed any fact while securing employment in the respondent-Corporation.

5. At the outset, the writ petitioner is of the opinion that he has not committed any act of suppression or misrepresentation. There was no prescribed column in the Form submitted by the respondent-Management and therefore, he cannot be faulted at this point of time.

6. The learned counsel, appearing on behalf of the respondent, states that the writ petitioner by suppressing the fact secured employment, in fact, two of his brothers are employed in the respondent-Corporation and therefore, the writ petitioner is not entitled to secure employment.

7. In view of the false information provided in this regard, the respondent has issued a show cause notice, seeking explanation of the writ petitioner, within ten days from the date of receipt of the memo. Thus, an opportunity is to be given to the respondent to consider all the materials available on record and take a decision in this regard. The learned counsel is of the opinion that the writ petition is premature and therefore, need not be entertained.

8. This Court is of the opinion that no writ can be entertained against a show cause notice in a routine manner. A writ against a show cause notice can be entertained only on exceptional circumstances if the show cause notice is issued by the authority having no jurisdiction or competency, if an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as a party in writ proceedings in his personal capacity. In the absence of any of these legal grounds, no writ can be issued against a show cause notice.

9. The writ petitioner is made an attempt to submit that he is otherwise not liable for any such allegations, this Court is not inclined to consider the merits and the demerits of the case in this writ petition and it is left open for the writ

petitioner to submit his explanations/objections and prove his innocence or otherwise before the officials concerned.

10. This Court is of the opinion that the writ petition challenging the present show cause notice is certainly premature and at this stage, this Court is not inclined to go into the merits of the case. The writ petitioner has to avail the opportunities provided under the show cause notice itself and thereafter if any grievances, then he is at liberty to approach the Forums in accordance with the law. Under these circumstances, the writ petition deserves no further consideration on merits and it is for the writ petitioner to submit his explanations/objections and defend his case before the Competent Authority.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

Svn

+1cc to Mr.R.Rajaram, Advocate SR.No.84519
+1cc to Mr.N.ithianandam, Advocate SR.No.84649

WP 11361 of 2014

GN(13/12/2017)

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