

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.24272 of 2007

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to declare the action of the respondents in not engaging the services of the petitioner on regular basis despite the fact that he worked for more than 240 days continuously for the period between 1985 – 87, as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India.

2. I have heard the submissions of Sri J.V.S.H.Sastry, learned counsel for the writ petitioner, and of learned Government Pleader for Animal Husbandry (A.P.) appearing for the respondents. I have perused the material record.

3. The case of the petitioner and the submissions made on his behalf, in brief, are as follows: 'He worked as casual labourer, from 14.03.1978 to 31.03.1982, in the Sheep Growers Society, Jalapalli, Penukonda Mandal. The said Society was closed. The said Society resumed its work again from 1985. He was again appointed as casual labourer on daily wages at Government Sheep Farm, Penukonda, Anantapur District, during the years 1985 to 1988. He made several representations to the respondents to appoint him on regular basis. Eleven casual labourers, who worked along with the petitioner, were regularised by the respondents in terms of G.O.Ms.No.212, Finance & Planning Department, dated 22.04.1994, (hereinafter referred to as 'G.O.Ms.No.212'). He also

made personal requests and made representations to the respondents to regularise his services as per the terms of G.O.Ms.No.212, but, till the date of filing of the writ petition, his services were not regularised, though he belongs to Scheduled Tribe community. He has to look after his children, wife and old aged parents; and, in view of the fact that his services were not regularised by the respondents, he is finding it difficult to feed his family. Regularisation of his services is being denied unreasonably. He worked for 261 days in the year 1985, 185 days in the year 1986, 261 days in the year 1987 and 12 days in the year 1988. Since he worked for more than 240 days during the years 1985 and 1987, he is entitled for regularisation of his services in view of the provision of section 25H of the Industrial Disputes Act, 1947, (Act No.14 of 1947). Despite lapse of 15 years, his requests were not considered and, therefore, he is constrained to file the writ petition.'

4. Though the writ petition was originally filed seeking regularisation of services, the petitioner, by filing WPMP No.9530 of 2008, sought for amendment of the prayer and is now seeking 'engagement of his services' instead of 'regularisation of his services'. The said petition was allowed by this Court by order, dated 16.10.2008, and therefore, the petitioner is now not claiming regularisation of services; but, is only requesting to direct the respondents to engage his services.

5. The first respondent filed a counter affidavit *inter alia* stating as under: "The petitioner's case cannot be considered as per the terms of G.O.Ms.No.212, as the terms of the said G.O., stipulate that any person to be eligible for regularisation must have worked continuously for a

minimum period of five years and be continuing in service as on 25.11.1993 and must also fulfil the other conditions with regard to the qualifications, age etcetera. Admittedly, even as per his own pleadings, the petitioner is not having qualifying service and was not continuing in service as on 25.11.1993. He is, therefore, not eligible for regularisation. Government institutions are not industries and therefore, the provisions of Act No.14 of 1947 have no application.”

6. At the hearing, the learned counsel for the petitioner fairly conceded that as per the terms of G.O.Ms.No.212, the petitioner is not eligible for seeking regularisation of his services. Obviously for that reason, the writ petition, which was originally filed seeking the relief of regularisation of services, was amended; and, the petitioner is presently seeking a relief to direct the respondents to engage his services considering his plight. The learned counsel for the petitioner would therefore, request this Court to give a direction to the respondents to engage the services of the petitioner as a casual labourer on daily wages at any Government Sheep Farm at Anantapur District, as for such engagement, there are no impediments of any kind. He brings to the notice of this Court, the interim order, dated 16.11.2007, passed in WPMP No.31619 of 2007 by this Court in favour of the petitioner, which reads as follows: “There shall be interim direction to the respondents to consider engaging the petitioner in the employment of the organisation as per the provisions of Section 25 – H of the Industrial Disputes Act, 1947.”

7. Learned counsel appearing for the parties are not in a position to state as to whether the said order, was implemented and/or is being

implemented or not. However, the learned Government Pleader for Animal Husbandry (A.P.) appearing for the respondents would submit that this writ petition is filed by the petitioner in the year 2007, nearly after two decades after the year 1987, claiming that he worked for more than 240 days during 1985 – 1987, and as such, the writ petition is liable to be dismissed on the ground of delay and laches.

8. I have bestowed my attention to the facts and submissions.

9. Eventually, the petitioner is not seeking regularisation of his services; but is only seeking a relief to direct the respondents to engage his services as a casual labourer in any Sheep Farm of the Government at Anantapur District to enable him to do the work, which he knows, and eke out his livelihood and make a living and maintain his family and aged parents.

10. Having regard to the facts and submissions, this writ petition is disposed of directing the respondents to consider the request of the petitioner for engaging his services as casual labourer on daily wages, either at Government Sheep Farm, Penukonda, or at any of the Government Sheep Farms of Anantapur District or any nearby places, as per the norms, if any, applicable to the case of the petitioner.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

20th March, 2017
Bvv

M.Seetharama Murti, J