

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.3723 of 2013 in W.P.No.29427 of 2013 &

W.P.No.29427 of 2013 & C.C.No.2200 of 2015

COMMON ORDER:

Heard Sri V.Mallik, Advocate for Mrs. J.Sumathi, learned counsel for the petitioners and Sri B.Adinarayana Rao, learned Senior Counsel appearing for Sri K.Venkata Rao, learned Standing Counsel for respondent-Oil and Natural Gas Corporation (for short 'ONGC').

2. The petitioners are working in the above Corporation since 1992 initially through a contractor M/s.Poornima Agencies till 1997, and thereafter, through another contractor by name Chaitanya Industrial Cooperative Society till 12-06-2008.

3. On 03-12-2007, there was a strike notice given by the ONGC Society Contract Workers Joint Action Committee against respondents seeking regularization of contract workers. Pursuant thereto, there was a proposal mooted by the Regional Labour Commissioner (Central), Hyderabad to consider term based employment to 280 society workers with regard to relaxation in physical standards and this ended in an agreement on 08-01-2008 through conciliation. Thereunder the ONGC agreed to the age relaxation in providing term based employment to those society workers who are technically qualified subject to verification pertaining Diploma, Engineering, ITI etc.

4. Thereafter, a notification was issued by the ONGC on 01-04-2008 for filling up posts of Field Operator. Petitioners qualified in the written test and also in the interview and physical and medical fitness tests.

5. Through Proceedings dt.05-07-2008, the petitioner Nos.1 and 2 were appointed as Field Operators at M.M. Department, Narsapur and 3rd petitioner was appointed in Production category and was also posted at Narsapur. This appointment was for four years and their appointments were subject to verification of the genuineness of the certificates submitted by them to the ONGC.

6. Petitioners had secured the said appointments on the basis of Provisional ITI Trade Certificates issued by one Srilakshmi Memorial Industrial Training Centre, Penumantra. The ONGC wrote to the Department of Employment and Training to confirm the genuineness or otherwise of the ITI Trade Certificates submitted by petitioners and others.

7. On 24-06-2010 and 09-08-2010, the Deputy Director (APP), Regional Office of the Department of Employment and Training, Kakinada wrote to the ONGC stating that the Certificates of petitioner Nos.1 and 2 are not issued by the said Department.

8. The Deputy General Manager of the ONGC issued show cause notice dt.29-04-2011 to the petitioner Nos.1 and 2 stating that the Department of Employment and Training had stated that their

Trade Certificates were not issued by the said office; that the Principal, Srinivasa Saila, I.T.C., Penumantra (formerly Srilakshmi Memorial ITC, Penumantra) informed that the Certificates are not genuine; and so petitioners should show cause why their services should not be terminated with immediate effect for the said reason.

9. Explanations were furnished by the petitioner Nos.1 and 2 reiterating that the said Certificates are genuine; that the Government had issued a Memo on 22-08-1981 itself that Certificates of students of ISLC from private managements need not be countersigned by the Director of Technical Education and the management themselves will be responsible for conducting examinations properly and issuing Certificates; this was affirmed by another Memo dt.05-09-1981; on 21-04-1983 and 22-11-1988, the Commissioner and Director of Technical Education had extended temporary recognition to the Srilakshmi Memorial Industrial Training Centre, Penumantra and so their Certificates cannot be doubted. They also relied upon a letter dt.09-05-2011 allegedly issued by the Srilakshmi Memorial Industrial Training Centre stating that they studied in that institution and their Trade Certificate is genuine. The said Certificate also stated that the ISLC qualification possessed by them is equivalent to Industrial Training Institute Certificates awarded by NCTVT.

10. While this process was going on, the petitioners' term ended by efflux of time on 06-07-2012. Thereafter, their term of appointment was not renewed.

11. Then they filed W.P.No.25371 of 2013 seeking continuation of their tenure appointment. In that Writ Petition, on 30-08-2013, this Court in W.P.M.PNo.31302 of 2013 directed consideration of petitioners' representation dt.27-11-2012 for appointment of Field Operator on tenure basis within four weeks.

12. Thereafter, the impugned orders were passed on 30-09-2013 rejecting petitioners representation for re-engagement on term basis. In the said orders, the respondents reiterated the stand that the Trade Certificates produced by petitioners were not genuine since they were not countersigned by any Government authority; that on 13-01-2012, the Regional Joint Director of Technical Education also stated that the proceedings under which petitioners were given Trade Certificates were spurious and the Trade Certificates were not genuine; that even the Commissioner, Technical Education, Hyderabad on 04-06-2013 clarified that Srilakshmi Memorial Industrial Training Centre, Penumantra was not authorized to issue Provisional Trade Certificates; and since the tenure appointments of the petitioners expired on 06-07-2012, their term was not extended further.

13. Assailing the same, the present Writ Petition is filed.

14. On 19-11-2013, this Court granted an interim order in W.P.M.P.No.36565 of 2013 to the ONGC to engage the petitioners as Field Operators, subject to further orders.

15. W.V.M.P.No.3723 of 2013 is filed to vacate the said order.

16. Thereafter, W.P.M.P.No.12306 of 2016 was filed by the petitioners to implead the Director of Technical Education, State of A.P., Hyderabad, The Regional Joint Director of Technical Education, Kakinada, East Godavari District, Srilakshmi Memorial Industrial Training Institute, Rep. by its Correspondent, Penumantra, West Godavari District and Sri Srinivasa Saila Industrial Training Institute, rep. by its Principal, Penumantra, West Godavari District. Though notice was ordered to these parties on 24-06-2016 and is served, there is no response from the said parties.

17. Learned counsel for the petitioners contends that this Court in its order dt.31-12-2007 in W.P.No.12884 of 2007 had opined that countersigning of certificates of students of ISLCs who are passing out of private managements was unnecessary in view of Memo dt.05-09-1981 of the Director of Technical Education, Hyderabad, that such Certificates are also equivalent to ITI Certificates, that Srilakshmi Memorial, ITI, Penumantra (where petitioners studied) was accorded temporary recognition from 01-07-1990 to 30-06-1991 and this view was also confirmed in the order dt.05-09-2013 in W.A.No.791 of 2008 and batch wherein the

order of the learned Single Judge was assailed. He therefore contended that absence of counter signature of the Department of Employment and Training on the certificates issued to the petitioners was not relevant and merely because such signature is absent, the Certificates cannot be termed as bogus. He also contended that subsequently in 2013, petitioners did secure Provisional National Trade Certificate from Government Recognized Industrial Training Institute which are countersigned by the Directorate of Employment and Training and at least on the basis of these certificates, cases of petitioners ought to be considered.

18. In the vacate stay petition/counter affidavit, the respondents refuted the above contentions. Primarily they contend that the impugned orders do not suffer from any error; that the petitioners had obtained Provisional Trade Certificates in 1988 from Srilakshmi Memorial Industrial Training Centre; that the said centre had changed its name on 18-08-2007 to Srinivasa Saila ITC; that the Srinivasa Saila ITC, Penumantra had informed through letter dt.24-03-2011 that the Certificates produced by petitioners do not relate to it since they did not bear counter signature of competent authority i.e. Department of Employment and Training, Hyderabad and so they cannot be termed as genuine. They further contend that if the Srilakshmi Industrial Training Centre changed its name to Srinivasa Saila ITC in 2007, the petitioners ought to explain how Srilakshmi Memorial ITC gave a letter to them on 09-05-2011 with

the old name of Srilakshmi Memorial Industrial Training Centre that the Certificates of petitioners are genuine. It is further contended that there is no right in law to seek tenure appointment by way of reengagement and so the petitioners cannot be granted any relief.

19. In reply, learned counsel for the petitioners contend that the change of name of the institution Srilakshmi Memorial Industrial Training Centre is a new factor stated in the counter affidavit and it is not mentioned in the impugned order and so the respondents cannot be allowed to place reliance on it.

20. I have noted the contentions of both sides.

21. It is not in dispute that petitioners were granted appointment in 2008 by the ONGC for four years as Field Operators on the basis of Provisional Industrial School Certificates issued by Srilakshmi Memorial Industrial Training Centre, Penumantra in 1987-88. The said appointment was subject to verification of the genuineness of the same.

22. While petitioners contend that the above centre had given letter to them on 09-05-2011 stating that their certificates are genuine, respondents contend on the basis of the proceeding dt.24-03-2011 issued by Srinivasa Saila ITC (said to be formerly Srilakshmi Memorial ITC) that the Certificates are not genuine.

23. No doubt this factor is not mentioned in the impugned orders passed by the respondents. However that does not preclude

this Court from considering the issue of reengagement by the respondents of the petitioners unless this Court is satisfied about the genuineness of the letter dt.09-05-2011 relied upon by the petitioners.

24. If the name of Srilakshmi Memorial Industrial Training Centre was changed in 2007 itself as Srinivasa Saila ITC vide Memo No.D1/12215/07 dt.18-08-2007 issued by the Commissioner of Employment and Training, A.P., Hyderabad, there could not have been in existence Srilakshmi Memorial Industrial Training Centre in May 2011 for issuing the Certificate dt.09-05-2011 to the petitioners. Though notices in the Writ Petition have been sent to both centres, they have not responded. Therefore, serious doubt arises about the genuineness of the letter dt.09-05-2011 produced by the petitioners.

25. Consequently, though the counter signing requirements on the Trade Certificates by the Department of Employment and Training do not appear to be necessary as held in W.P.No.12884 of 2007 and W.A.No.791 of 2008, still the Certificates issued in 1987-88 to the petitioners by the Srilakshmi Memorial Industrial Training Centre appear to be doubtful particularly in view of the proceedings letter No.A1/799/2012 dt.13-01-2012 of the Regional Joint Director of Technical Education. In that letter, he has stated that declaration made in 11 Provisional Certificates issued by Srilakshmi Memorial Industrial Training Centre, Penumantra with fake proceeding numbers for the years from 1983 to 1993 specifying that the institution is recognized by the Director of Technical Education, Andhra Pradesh,

Hyderabad is deceptive and false since the said Director is not competent to give recognition to industrial training centres and cannot empower them to issue any Provisional Certificates. He also stated that they are make believe and fake.

26. I find force in this stand of the respondents. Therefore I do not find any error in the decision of the ONGC not to renew the term engagement of the petitioners which ended in July 2012.

27. Merely because petitioners subsequently secured valid Trade Certificates in 2013, that does not entitle them to seek employment in ONGC.

28. I therefore vacate the interim order dt.19-11-2013 in W.PM.P.No.36565 of 2013 in W.P.No.29427 of 2013.

29. Consequently, W.V.M.P.No.3723 of 2013 is allowed and W.P.No.29427 of 2013 is dismissed. No costs.

C.C.No.2200 of 2015:

30. This Contempt Case is filed alleging willful disobedience of the order dt.19-11-2013 in W.PM.P.No.36565 of 2013 in W.P.No.29427 of 2013.

31. I have vacated the said interim order by allowing the W.V.M.P.No.3723 of 2013 and I have also dismissed the Writ Petition. Therefore, as a consequence, the Contempt Case is also dismissed. No costs.

32. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-07-2017

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