

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.7529 of 2017

ORDER:

The petitioner claims to be the employee of erstwhile Andhra Pradesh Cooperative Consumers Federation Limited (for short FEDCON), appointed between 1986 and 1989. It appears, in the year 2001, a decision was taken by the Government to implement voluntary retirement scheme and options were called from the employees of FEDCON. The petitioners herein have not opted for voluntary retirement scheme and they were sought to be retrenched. At that stage, challenging the decision of the Government in G.O.Ms.No.16, dated 22-03-2001, whereunder the Government decided to windup the FEDCON and authorized to call for option for voluntary retirement, batch of writ petitions were filed. The said writ petitions were considered and by judgment, dated 05-09-2002 this Court dismissed the writ petitions and the request made on behalf of the petitioners that a direction be issued to the Government to formulate the scheme for absorption in any other Government service was also rejected. However, liberty was granted to Government to evolve policy. It appears that no such policy was evolved. The petitioners claim that they were entitled to claim retrenchment compensation but the same was also not paid to them. It appears that in the earlier writ petitions the petitioners seem

to have pursued the issue of their absorption in the Government service or in any of its entities.

In the present writ petition, the petitioners seek to issue writ of Mandamus and to declare inaction of respondents in not exercising its discretion to evolve the policy of re-employment of FEDCON employees as amounting to arbitrary exercise of power and violative of Articles 16 (1), 14, 21 and 300-A of Constitution of India. Alternatively they seek a direction to pay retrenchment compensation.

With reference to first limb of the order the issue is covered by the decision in the judgment referred to above. The operative portion of the order reads as under:

“In extremis, the learned counsel for the petitioners would urge that a Mandamus be issued to the Government to reemploy the petitioners in the Government Departments. No such Mandamus can be issued. Mandamus is not a recognized source of recruitment to Government services. If the State Government has an extant policy of rehabilitation of retrenched employees of FEDCON in other Government Departments, it is at liberty to do so. The respondents are also at liberty to consider any representation made by the petitioners seeking any relief. The re-employment or absorption into the other Government Departments involves complex policy choices, economic, strategic, and structural, and a host of other factors come into play in the evolution of such policy. These factors do not have any adjudicatory disposition under Article 226 of the Constitution of India. In the analysis above, I find no warrant for grant of any relief to Panchayat Raj

Department, Hyderabad sending up the bio-data of some of the employees of FEDCON for his consideration for appointment in any of the vacancies available in the Panchayat Raj Department. Petitioners seek a direction that the recommendation of the Liquidator for employment of the petitioners be considered. Learned Government Pleader for Industries and Commerce, however, submits that A.P. Act 4 of 1997 prohibits re-deployment of employees of failed public sector undertakings into Government service. As I have already indicated my disinclination for issuance of a Mandamus for re-employment, I do not wish to go into whether the legislation referred to by the learned Government Pleader prohibits decision making by the Government to re-employ the petitioners or accommodate them in any other Government Department. The Government is at liberty to evolve a policy in this regard. However, no Mandamus can be or is issued.”

It appears from the material papers enclosed in the writ petition that there is a claim of retrenchment compensation and the same is not paid. However, the affidavit is silent as to why the petitioners have not availed the remedy as available under the Industrial Disputes Act.

Learned counsel for the petitioners sought to contend that the petitioners have not availed this remedy since they were all along prosecuting their grievance with reference to absorption into the Government service and they were having some hope of such absorption and hence they did not claim retrenchment compensation.

As noted above, in view of the earlier judgment, no relief can be granted regarding formulation of absorption policy.

With reference to the claim for retrenchment compensation matter cannot be gone into in exercise of power of judicial review as it requires consideration based on the material that can be brought on record and consideration of rival claims and the obligation to pay the retrenchment compensation. More so, it is also to be born in mind that the issue relates to the year 2001. Since the petitioners have efficacious remedy under the Industrial Disputes Act, whereunder all issues concerning the claim can be gone into, where petitioners can also lead evidence in support of their claim this Court is not inclined to entertain the writ petition and go into the claim at this stage.

Since the petitioners have efficacious remedy, leaving it open to the petitioners to work out the remedies as available under the Industrial Disputes Act, the writ petition is disposed of. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

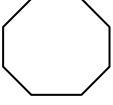
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