

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.28078 of 2005

S.Poopathi

....Petitioner

-vs-

1. The Chairman,
Cauvery Basin Refinery,
Chennai Petroleum Corporation Ltd,
Regd. Office. 536, Anna Salai,
Teynampet, Chennai 600 018.
 2. The Chief Manager (P&A),
Cauvery Basin Refinery,
Chennai Petroleum Corporation Ltd,
(A Govt.of India Undertaking), Panangudi,
Naggapattinam 611 002.
-Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents to recruit the petitioner in the available vacancy in the respondent's company on regular basis.

For Petitioner : Mr.R.Muthukannu

For Respondents 1&2 : Mr.R.Senthil Kumar

सत्यमेव जयते
O R D E R

The learned counsel for the writ petitioner fairly made a submission that the similar issues raised in the present writ petition had already been decided by this Court in WP.No.49271 of 2006 dated 19.01.2018. The relevant paragraphs are extracted hereunder:-

" 2.It is brought to the notice of this Court that the writ petitioner himself admitted the fact that a writ appeal No.188 of 1999 was filed and the same was disposed of on 10.08.2000 in the following terms:-

"At the outset, the Learned Counsel appearing for the respondents fairly suggested that though regular appointment cannot be given to the appellant/petitioner, the Management would make all efforts to see that the appellant /petitioner is accommodated by any of the Contractors."

2.In view of that, the learned counsel for the petitioner does not want to press the writ appeal.

3.We hope that the management would take sincere steps within two months from today to do the needful and to get the petitioner appointed as far as possible and commensurate to his qualifications.

4.With this Writ Appeal is disposed of"

3.When the petitioner himself has admitted and served as a contract labourer, now, he cannot be turned back and sought for permanent absorption. Further, the employees appointed in accordance with the Recruitment Rules in force can be absorbed permanently or their services can be regularized. The Constitution Bench of the Hon'ble Supreme Court of India also laid down the legal principles in the matter of permanent absorption and regularization in the case of Secretary, State of Karnataka Versus Uma Devi and Others reported in 2006 (4) SCC 1. Thus, regularisation or permanent absorption cannot be granted in the cases where initial appointments were not in accordance with law.

5.Admittedly, in the present case the initial appointment was made on contract basis. Mere length of service cannot be a ground to seek regularisation. The writ petitioner has agreed to serve as contract employee and such an undertaking was given by the writ petitioner even before the Hon'ble Division Bench in the writ appeal No.188 of 1999.

6.Under these circumstances, the relief as such sought for in the writ petition cannot be granted. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed."

2. In view of the above said orders, the present writ petition stands dismissed. No Costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Pkn

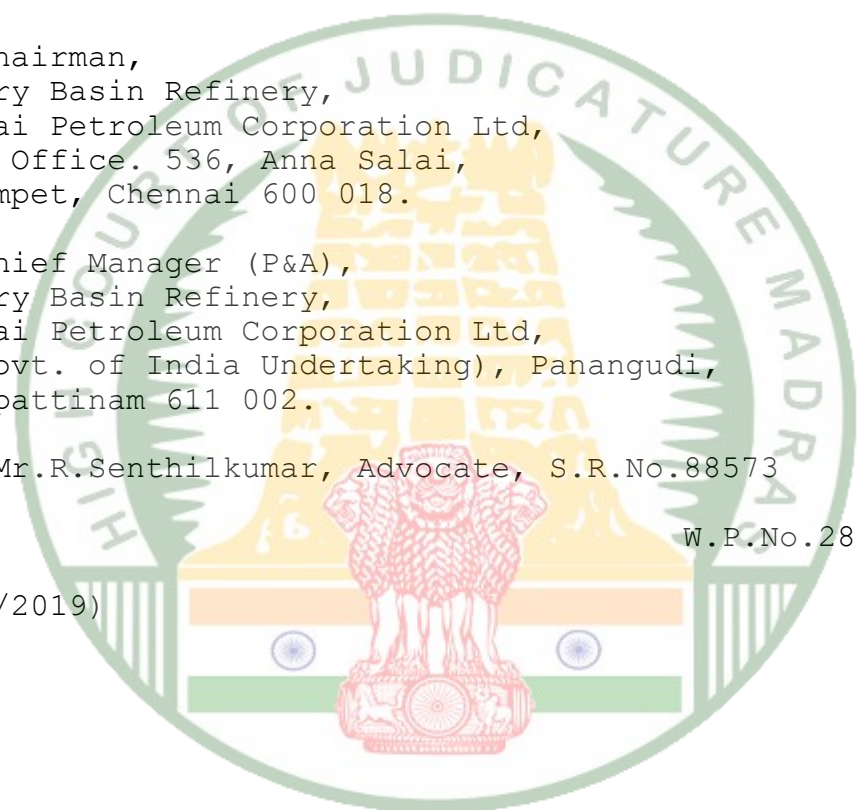
To

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+1 cc to Mr.R.Senthilkumar, Advocate, S.R.No.88573

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CP(CO)
SSM(10/01/2019)

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. The entire emblem is set against a background of horizontal stripes in orange, white, and green. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed around the perimeter of the seal. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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