

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22028 of 2007

K.K.Venkatesan

... Petitioner

Vs.

- 1.The Union of India,
represented by Secretary to Government,
Ministry of Labour,
Directorate General of Employment
and Labour,
New Delhi - 110 001.
 - 2.The Regional Director,
Directorate of Apprenticeship
Training Scheme,
Southern Region, Guindy, Chennai - 600 032.
 - 3.The Chairman,
Neyveli Lignite Corporation Limited,
Neyveli - 1.
 - 4.The Director (Personnel),
Neyveli Lignite Corporation Limited,
Neyveli - 1.
 - 5.The Deputy General Manager (P&A),
Neyveli Lignite Corporation Limited,
Neyveli - 1.
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records, relating to order dated 05.05.2007 passed by the 5th Respondent in Lr.No. Corp./P&A/IR/720/2007 and quash the same and consequently direct the Respondents 3 to 5 to provide suitable employment to the Petitioner in NLC.

For Petitioner : Mr.S.J.Jagadev

For Respondents: Mr.J.Madhan Gopal Rao for R1 and R2
M/s.N.A.K.Serma for R3 to R5

O R D E R

The petitioner has filed this petition seeking issuance of Writ of Certiorarified Mandamus calling for the records, relating to the order dated 05.05.2007 passed by the fifth Respondent in Lr.No. Corp./P&A/ IR/720/2007 and to quash the same and to consequently direct the Respondents 3 to 5 to provide suitable employment to the Petitioner in NLC.

2.The case of the petitioner is that the petitioner's father was working as Personnel Manager P & A Department, Neyveli Lignite Corporation Limited and retired on 30.04.1994. The respondent Corporation in order to maintain a cordial industrial relationship, used to accommodate the wards of the employees of the Corporation who have completed I.T.I. Certificate diploma holders, A.E.degree holders by giving them apprenticeship training and consequently appointing them in regular vacancies.

3.It is the further case of the petitioner that the respondent Corporation issued Notification dated 18.11.1988 for induction of 50 apprentices and the petitioner also applied for the same and underwent training and successfully completed one year apprenticeship training from 06.09.1989 to 05.09.1990 and certificate to that effect was also given to the petitioner. The petitioner also participated in the medical examination, however, he was not given appointment. Hence, the petitioner filed writ petition in W.P.No.8248 of 1999 before this Court and this Court vide order dated 04.09.2003 directed the respondents therein to consider the petitioner's representation.

4.It is the further case of the petitioner that thereafter the fifth respondent vide order dated 06.12.2003, rejected the petitioner's representation and hence, the petitioner filed writ petition in W.P.No.11481 of 2004, however the said writ petition was dismissed on 26.04.2004. Thereafter, the petitioner filed R.A.No.74 of 2004 with special reference to G.O.Ms.No.142, Labour and Employment Department dated 10.11.1999 and in the said review application this Court observed to take into consideration the said Government Order, if it is applicable.

5.It is the further case of the petitioner that thereafter, the petitioner made representation dated 18.12.2006 to the third respondent and since the petitioner did not receive any reply, he filed another writ petition in W.P.No.5370 of 2007 and this Court vide order dated 16.02.2007, directed the respondents therein to consider the petitioner's representation with reference to the applicability of the said Government Order. Thereafter, the fifth respondent vide order dated 05.05.2007 rejected the petitioner's representation. Hence, the petitioner has filed this writ petition.

6.The case of the respondents is that earlier NLC I.T.I. Apprentice Welfare Association filed writ petition in W.P.No.35562 of 2003 and the said writ petition was dismissed by this Court on 17.12.2004. The said order was challenged in W.A.No.235 of 2005 and the Hon'ble First Bench of this Court vide judgment dated 02.05.2005 had dismissed the said appeal.

7.It is useful to extract hereunder paragraph no.8 of the judgment dated 02.05.2005 made in W.A.No.235 of 2005:

"8.Having regard to the above legal and factual position, the claims of the appellant made in the writ petition as turned done by the learned single Judge cannot be found fault with. As far as the rights of the appellant to invoke the provisions of the Industrial Disputes Act to challenge the impugned Settlement is concerned, the appellant themselves claim that they cannot be construed as 'workmen' as they are apprentices under the Apprentices Act and therefore, they have no right to invoke the provisions of the Industrial Disputes Act. Having regard to such a categorical stand taken on behalf of the appellants, we do not propose to take a contrary view and provide any scope to challenge the impugned Settlement which was entered into as long back as on 18.5.1995 under the provisions of the Industrial Disputes Act which would otherwise become a futile exercise. Looked at from any angle, we do not find any merit in this Writ Appeal. Therefore, the Writ Appeal is liable to be dismissed."

8.It is the further stand of the respondents that the benefits of G.O.Ms.No.142, Labour and Employment Department dated 10.11.1999 can be extended only to those persons who have successfully undergone training in terms of the Apprentices Act, 1961 whereas, the petitioner was imparted with only the ad-hoc in-house training as one time measure and he does not possess the National Apprentices Certificate. Hence his representation was rejected.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.Perusal of records reveal that the petitioner was imparted with only the ad-hoc in-house training as one time measure as was given to wards of other employees and the petitioner did not possess any National Apprentices Certificate. Hence, extending the benefit of G.O.Ms.No.142, Labour and

Employment Department dated 10.11.1999, to the petitioner does not arise and his representation was rightly rejected. Hence, I do not find any error in the impugned order dated 05.05.2007 passed by the fifth Respondent.

11.The writ petition is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Union of India,
represented by Secretary to Government,
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- 2.The Regional Director,
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(CS-VIII)
EU(11/08/2018)