

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

***THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

and

***THE HON'BLE SRI JUSTICE M. GANGA RAO**

**+ Writ Appeal Nos.285, 287, 302, 303, 305, 306, 328,
373, 374, 375, 376, 378, 381, 382, 383, 384, 390, 391,
392, 405, 456, 513, 548, 551 and 558 of 2017**

and

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373, 374, 375, 376, 378, 381, 382, 383, 384, 390, 391,
392, 405, 456**

Mr. Rama Mohan Palanki, learned counsel appearing for the petitioners in the writ petitions.

3. The respondents in the writ appeals, filed by the management, were originally engaged as Field Operators through private contractors on contract basis from the year 1994/1995 or so. Raising certain demands on behalf of these contract labourers, the ONGC Contract Workers' Union served a strike notice on 06-11-1996. Subsequently, three more strike notices were issued on 16-07-1997, 03-10-1997 and 20-10-1997, demanding the recognition of the contract workers as the employees of the ONGC.

agreed in the said meeting that the existing contracts with some of those Cooperative Societies will stand terminated with effect from 01-01-2003 and that fresh contracts will be entered into between the societies and the ONGC for a period of 5 years with effect from 01-01-2003. It is was further agreed in the said meeting that the members of the Cooperative Societies, who were academically/ technically qualified in the areas of their assignments (I.T.I., Diploma, Competency Certificate, Certificate in Fire Fighting, Degree, Post Graduation etc., from recognized Universities/ Institutions) may be taken up for consideration from existing semi-skilled to skilled categories. It was also agreed that ONGC will create and fill up 60 posts to meet operational requirements and to start the process of recruitment immediately. The process of recruitment in the second phase was agreed

7. However, history repeated itself, when the term of 5 years agreed under the Memorandum of Understanding (MOU) dated 20-01-2003 was about to come to an end, with the union serving a strike notice on 12-11-2007. The Assistant Commissioner (Labour), Vijayawada initiated conciliation proceedings and the proceedings continued before the Regional Labour Commissioner (Central), Hyderabad on 08-01-2008. In the conciliation proceedings held on 08-01-2008, the management agreed to provide term based employment to those society workers, who were technically qualified, subject to verification of certificates pertaining to fire fighting, paramedical, heavy vehicle driving licence, Telecom Competency Certificate, Degrees and Diplomas etc. The management also agreed that those society workers, who did not possess technical

9. At this stage, the management issued a circular dated 01-09-2014 followed by a paper publication dated 05-09-2014 inviting applications for filling up the posts in A1, A2 and W1 levels from the open market. Fearing a breach of the agreement, the ONGC Field Operators' Union and some of the workers employed on tenure basis, came up with a first batch of writ petitions seeking regularization of their services and also challenging the notification for recruitment from the open market. Thereafter, another set of writ petitions came to be filed in the year 2015 and one writ petition came to be filed in 2016 with similar prayers.

10. All the writ petitions were tagged together and heard by a

11. Aggrieved by the directions issued by the learned Judge, the management has come up with the above writ appeals. A few individuals, who were denied relief by the learned Judge, have also come up with writ appeals. One person, who applied from the open market in response to the recruitment notification, also came up with a writ appeal. The writ appeals filed by the unsuccessful employees, require consideration on a case to case basis and hence, they were separated from the present batch. As a consequence, the present batch of cases is concerned only the claim for regularization and the directions issued by the learned single Judge.

12. Before looking at the grounds of attack to the order of the learned Judge, it will be useful to see how the learned Judge dealt with the claim of the workmen

Petroleum Coal Labour Union¹, a writ Court was entitled to deal with the issue of unfair labour practice.

15. On point No.(b), the learned Single Judge held that the availability of alternative remedy is not always a bar, but only a self imposed restriction and that since the workmen have been employed for more than 20 years through different modes of engagement designed by the management that may tantamount to unfair labour practice, the writ petitions cannot be thrown out on the ground of availability of alternative remedy.

16. On point No.(c)

Corporation v. Casteribe Rajya Parivahan Karmachari Sanghatan⁵, in which *Uma Devi* was distinguished. The learned Judge also took note of the decision in **Nihal Singh v. State of Punjab and others**⁶, and concluded that the decision in *Petroleum Coal Labour Union* pushed of the other decisions to the background. Thereafter the learned Judge went on to point out that at least two High Courts, viz., Delhi and Gujarat has considered identical issues respectively in **Krishan Gopal v. ONGC**⁷ and **the Executive Director/Basin Manager Oil and Natural Gas Corporation Ltd. v. ONGC Employees Maz**

