



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.7555 of 2014

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S.Vivekanandhan

... Petitioner

vs.

1.The Management of Bharat Heavy
Electricals Limited,
Rep. by its Chairman and Managing Director,
BHEL Corporate Office, Siri Fort,
New Delhi-110 049.

2.The Executive Director,
Bharat Heavy Electricals Limited,
Trichy-620 014.

3.The Senior Manager/HR
(Recruitment & Systems),
Bharat Heavy Electricals Limited,
Trichy-620 014.

4.The General manager,
Bharat Heavy Electricals Limited,
Trichy-620 014.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to appoint the petitioner in the post of Artisan Grade IV in the trade as "MACHINIST".

For Petitioner : Mr.S.Vanchinathan

For Respondent : No appearance

O R D E R

The relief sought for in the present writ petitions is for a direction to the respondents to appoint the petitioner in the post of Artisan Grade IV in the trade as "MACHINIST".

2. The main ground raised in the present writ petition is that the writ petitioner is fully qualified for appointment to the posts of Artisan Grade IV in the trade as "MACHINIST" and he had



already undergone apprenticeship training in Bharat Heavy Electricals Limited, Tiruchirappalli. In view of the fact that the writ petitioner had undergone apprenticeship training in the same organization, he must be given preference for appointment.

3. The apprenticeship training is given by various Government organizations and private companies. The apprenticeship training would not confer any right on the candidate to seek appointment and it is to be made strictly in accordance with the Recruitment Rules in force. The similar issue was already adjudicated by the Honourable Division Bench of this Court by Judgment dated 10.02.2015, in W.A.(MD) Nos.1047 to 1062 of 2018. The relevant portion of the said Judgment is extracted hereunder:

"5.1. The existence of Apprenticeship Agreements signed by the parties is not in dispute. As the appellant has produced agreements signed in the year 1989, it may be safely be inferred as to their existence, covering all the cases. Thus, the adverse inference drawn by the Division Bench has no application. There is also no specific denial to the existence of the agreements and hence, we proceed further on the premise that the agreements were entered into between the parties.

5.2. Clause 5 of the agreement absolves the appellants on its obligation to offer any employment to an apprentice and correspondingly such apprentices are not obliged to accept any employment. Being the signatories to the contracts the private respondents cannot resile. If the said clause is read in consonance with Section 22(1) of the Apprentices Act, then, the only conclusion that can be arrived is the non-availability of legal right to seek absorption, regularisation and preference as a matter of right. The Supreme Court of India in Chairman/M.D., Mahanadi Coal Fields Ltd., and others vs. Sadaship Behera and others, ((2005) 2 SCC 396), while considering the purport of Section 22(2) of the Apprentices Act, has observed as follows:

11. Learned counsel appearing for the appellants has placed particular reliance upon the decision reported in (2005) 2 SCC 396 =



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Fields Ltd., and others vs. Sadaship Behera and others), wherein it was observed :-

"6. There is another aspect of the matter which deserves consideration. The whole stand of the writ petitioner (Respondent 1 in this appeal) was that he had undergone apprenticeship training with Mahanadi Coalfields Ltd. and, therefore, he was entitled to be appointed on the post of welder. The Apprentices Act was enacted in the year 1961 and as the preamble shows that it is an Act to provide for the regulation and control of training of apprentices and for matters connected therewith. Section 2(aa) defines an "apprentice" and it means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship. Section 2(aaa) defines "apprenticeship training" and it means a course of training in any industry or establishment undergone in pursuance of a contract of apprenticeship and under prescribed terms and conditions which may be different for different categories of apprentices. Section 4 provides that no person shall be engaged as an apprentice to undergo apprenticeship training unless he has entered into a contract of apprenticeship with the employer and the training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into. It further provides that every such contract shall be sent by the employer to the Apprenticeship Adviser for registration. Sections 6 and 7 lay down that the period of apprenticeship training shall be specified in the contract of apprenticeship and the same shall terminate on the expiry of the period of apprenticeship. Rule 6 of the Apprenticeship Rules, 1991 (hereinafter referred to as "the Rules") mandates that the contract shall be sent by the employer for registration within three months of date on which it was signed. Sub-rule (3) of Rule 6 provides that the obligation of the employer and that of the trade apprentice shall be as specified in Schedule V or VI, as the case may be. Clause (10) of Schedule V which relates to the obligation of the employer reads as follows:



6. In the result, the orders passed by the learned single Judge are hereby set aside and the writ appeals stand allowed. Consequently, the writ petition is dismissed. No costs.



4. In view of the fact that the issue in this regard has already been settled by the Honourable Division Bench of this Court, no further consideration is required in respect of the grounds raised in the present writ petition.

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5. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (A.S)

// True Copy //

Sub Assistant Registrar (CS)

To

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+1CC TO Mr.S.Vanchinathan, ADVOCATE IN SR No. 78064.

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CS(08.08.2019) 7P 6C