

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.904 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“....to call for the records from the Respondents and issue an appropriate Writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring that the action of 4th respondent in proceedings Ref.No.RG.I/ GDK.11/ CF-1140/ 2018/ 4946, dated 29.11.2018, refusing to consider the case of petitioner's son Sri Meraka Sridhar for appointment under medical invalidation scheme as per Circular issued by the Respondent Company dated 09.03.2018, having declared medically unfit on 21.11.2012 and removed the petitioner from service on 09.01.2013, now making allegations without issuance of any charge sheet or conducting enquiry and without giving any opportunity to the petitioner and without furnishing vigilance report, depriving petitioner's son dependant employment as illegal, unjust, contrary to law, arbitrary amounts to unfair labour practice in violation of principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India and grant all consequential benefits.....”.

Heard Mr.A.K.Jayaprakash Rao, learned counsel for petitioner and Sri J.Sinivas Rao, learned Standing Counsel for respondents.

It has been contended by the petitioner that he was initially appointed as a Badli Filler during February, 1978 and he was given several promotions and finally while he was working as Electrician, he was declared medically unfit and he retired on 09.01.2013 on medical invalidation. Thereafter, the petitioner has submitted a representation to the respondents on 22.05.2018 requesting to provide dependent employment to his son. The respondents, instead of providing employment to his son under dependent employment, have rejected the case of the petitioner vide proceedings dated 29.11.2018 contending that the petitioner got

employment with the respondents by impersonating one Akula Sihari and since the petitioner has secured employment with the respondents by impersonation, the appointment to the son of the petitioner was rejected. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner submits that the petitioner has worked for more than thirty years with the respondents and at no point of time, any charge memo was issued stating that the petitioner has impersonated one Akula Sihari and it is only while rejecting the case of the petitioner's son for dependent employment vide proceedings dated 29.11.2018 the respondents have come up with a theory that the petitioner has impersonated one Sri Akula Sihari and in his place the petitioner got employment. Therefore, the learned counsel submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner's son for dependent employment by setting aside the impugned order.

Learned Standing Counsel appearing for the respondents has contended that when the case of petitioner's son was referred to Vigilance Wing of the respondents and during discrete enquiries made by the Vigilance Wing, it has come to the notice of the respondents that the petitioner has impersonated and secured employment with the respondents in a deceitful manner. Therefore, the dependent employment to the son of the petitioner was rightly rejected. There are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the impugned order was passed without proper application of mind and without giving any opportunity to the petitioner. When the petitioner had worked with the respondents for more than thirty years, the respondents have not raised the issue that the petitioner has impersonated and secured employment deceitfully with the respondents. It is only after the petitioner being retired under medical invalidation scheme, the respondents rejected the case of the petitioner's son for dependent employment on the ground that the petitioner has secured employment by impersonating one Si Akula Sihari. There is no basis for such a finding to be recorded by the respondents that too behind the back of the petitioner, without giving any opportunity to him. Therefore, the impugned order is liable to be set aside and it is accordingly set aside and the respondents are directed to consider the case of the petitioner for providing dependent employment to his son and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 21-08-2019
Prv

