

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5830 of 2019

ORDER:

This writ petition is filed seeking to declare the action of respondents in not allowing the petitioners into their service as Technical Officers/Junior Technical Officers on contract basis in the respondent-organisation from 21.12.2018 inspite of continuing the colleagues of the petitioners, who were appointed along with them in the similar posts on contract basis in the years 2012 and 2013, as illegal, discriminatory, arbitrary, unjust, contrary to law and against the principles of natural justice and violative of Articles 14, 16, 19 and 21 of the Constitution of India and against the catena of judgments of Apex Court and this Court, and sought a consequential direction directing the respondents to consider the representations of petitioners dated 21.12.2018, 03.01.2019, 27.01.2019 and 27.02.2019 to allow the petitioners to discharge their duties in the respondent-organisation forthwith in the same posts i.e. Technical Officer/Junior Technical Officer.

2. Heard Sri Chikkudu Prabhakar, counsel for petitioners and the Additional Advocate-General appearing for respondents.

3. It has been contended by the petitioners that they are fully eligible and qualified to be appointed as Technical Officers and Junior Technical Officers. The respondents have issued notifications for filling up the posts of Technical Officer/Junior Technical Officer on 20.03.2012 and 20.05.2013. As the petitioners were fully eligible and qualified to be

appointed for the said posts, they have responded to the said notifications. After undergoing regular selection process, petitioners were appointed as Technical Officers/Junior Technical Officers on contract basis for a period of one year. The petitioners were appointed in SIS-DP project and the tenure of appointment of petitioners was extended from time to time and finally the services of petitioners were extended upto 20.12.2018, and thereafter, their services were not extended. Challenging the same, the present writ petition is filed.

4. Counsel for petitioners contended that the persons who were similarly appointed along with the petitioners during the years 2012 and 2013 are being continued and the respondents are selectively continuing the employees on contract basis and are not renewing the contract services of petitioners in arbitrary exercise of power. Counsel for petitioners contended that appropriate orders be passed in the writ petition directing the respondents to renew the contract tenure of the petitioners as is being done in the case of other persons who were appointed along with the petitioners.

5. Counsel for petitioners has relied upon the judgment of this Court in **A.P.Tourism Development Corporation Ltd., rep. by its Chairman and Managing Director & another v. B.Nandeswar Rao¹** and contended that a contract employee cannot be terminated without conducting departmental inquiry. The learned counsel has also relied upon the judgment rendered by the Hon'ble Supreme Court in

¹ 2015(1) SLR 206

D.S.Nakara & others v. Union of India² and contended that the respondents cannot classify the contract employees and continue only the selected few. Learned counsel has further relied upon the judgment of Hon'ble Supreme Court in **Veerendra Kumar Dubey v. Chief of Army Staff & others**³ and referred to paragraph 17 of the said judgment, which reads as follows :

“17. The procedure presented simply regulates the exercise of power which would, but for such regulation and safeguards against arbitrariness, be perilously close to being ultra vires in that the authority competent to discharge shall, but for the safeguards, be vested with uncanalised and absolute power of discharge without any guidelines as to the manner in which such power may be exercised. Any such unregulated and uncanalised power would in turn offend Article 14 of the Constitution.”

6. The learned counsel for petitioners has also relied upon another judgment of Hon'ble Supreme Court in **J.Panduranga Rao v. Andhra Pradesh Public Service Commission, Hyderabad & others**⁴ and referred to paragraph No.7 of the said judgment, which reads as under :

“7. That immediately raises the question about the validity of the impugned rule. The petitioner argues that by prescribing the limitation that the applicant must be an Advocate of the Andhra High Court, the rule has violated his fundamental rights guaranteed under Articles 14 and 16(1) of the

² AIR 1983 SC 130

³ (2016) 2 SCC 627

⁴ AIR 1963 SC 268

Constitution. As a result of the rule, persons who are not practicing as Advocates of the Andhra High Court are disqualified and that amounts to unconstitutional discrimination. Art. 14 which provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India, as well as Article 16(1) which provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State have been frequently considered by this Court. The scope and effect of the provisions of Article 14 can no longer be the subject-matter of any doubt or dispute. It is well-settled that though Art.14 forbids class legislation, it does not forbid reasonable classifications for the purposes of legislation. When any impugned rule or statutory provision is assailed on the ground that it contravenes Art.14, its validity can be sustained if two tests are satisfied. The first test is that the classification on which it is founded must be based on an intelligible differentia which distinguishes persons or things grouped together from other left out of the group; and the second is that the differentia in question must have a reasonable relation to the object sought to be achieved by the rule or statutory provision in question. As the decisions of this Court show, the classification on which the statutory provision may be founded may be referable to different consideration. It may be based on consideration or it may have reference to objects or occupations or the like. In every cases, there must be some

nexus between the basis of the classification and the object intended to be achieved by the statute, vide Ram Krishna Dalmia vs. Justice S.R. Tendolkar, (1959) SCR 279. It is in the light of these principles that we must now proceed to examine the problem raised by the petitioners for our decision in the present proceedings.”

7. Based upon the above judgments, counsel for petitioners contends that the action of respondents in not renewing the contract service of petitioners is arbitrary and illegal and prayed that appropriate directions be granted in the writ petition directing the respondents to renew the contract service of petitioners with all consequential benefits.

8. The Additional Advocate-General appearing for respondents has contended that the petitioners were engaged on contract basis in SIS-DP project, and as the said project has come to an end on 20.12.2018, the services of petitioners were no more required. Since the appointment of petitioners was co-terminus with the project, the services of petitioners were deemed to have been terminated on 20.12.2018. The petitioners have no legal right to seek for their continuation beyond the project period. The learned Additional Advocate-General has drawn the attention of this Court to the counter affidavit, wherein, it was categorically stated in paragraph 6 at page No.6 that the Governing Body of the Society, in its meeting held on 28.01.2017, has extended the SIS-DP project upto 20.12.2018 and that the co-terminus services of petitioners, had to be terminated on 20.12.2018 as the tenure of the project ends on the said date. It is also stated in the counter affidavit that

the petitioners were never discriminated and the persons who were continued beyond December 2018, were working in some other project, but not in SIS-DP project, therefore, the petitioners cannot compare themselves with the other Technical Officers/Junior Technical Officers working on other projects.

9. Counsel for petitioners has drawn the attention of this Court to page No.149 of the additional material papers filed by them to the effect that the respondents have furnished information under the Right to Information Act stating that the SIS-DP project has come to an end in the month of December 2016 itself and the petitioners must be continued on par with other contract employees, inspite of the fact that the SIS-DP project has come to an end in December, 2016.

10. This Court, having considered the rival submissions made by the parties, is of the considered view that when the petitioners were appointed on contract basis in SIS-DP project co-terminus with the said project and when the project has come to an end in December, 2018, this Court cannot give a direction to continue the petitioners on contract basis in other projects, where, similarly situated persons are continued. If the contention of the petitioners that the SIS-DP project has come to an end in 2016 itself but not in December, 2018, then, the continuation of petitioners upto December 2018 itself would be contrary to the project. Therefore, no reliance can be placed on the proceedings issued by the respondents under Right to Information Act, when, admittedly, the respondents have specifically stated in the counter affidavit that in the

23rd Governing Body meeting of the Society held on 28.01.2017, the tenure of SIS-DP project was extended only upto 20.12.2018. As the project itself has come to an end on 20.12.2018, the services of petitioners cannot be extended beyond the said date.

11. The judgments relied upon by the counsel for petitioners have no relevance to the facts of the case, as all those judgments relate to arbitrary exercise of power. In the instant case, the petitioners have not established the arbitrary action of respondents, as admittedly, the respondents have not passed any termination orders terminating the services of petitioners. As the project has come to an end, the services of petitioners are deemed to have been terminated. Since no orders have been passed terminating the services of petitioners, they cannot also contend that it is the case of termination simplicitor or stigmatic termination. Therefore, the writ petition is liable to be dismissed on this ground also.

12. For the aforesaid reasons, the writ petition is devoid of merit and it is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

6th December, 2019

ajr