

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.46982 of 2018

ORDER:

This writ petition is filed seeking the following relief :-

“....to issue an appropriate Writ, Order of direction, preferably one in the nature of Writ of Mandamus and to issue a direction, order or writ more particularly one in the nature of Writ of Mandamus to declare the impugned Proceedings Letter No.WCE/ E3/ 587/ Vol.20/ SF/ 888, 889, 890, 891, 892, 893, 894 and 895 M, dated 23.05.2018 of the 3<sup>rd</sup> respondent wherein rejecting the cases of the petitioners for providing daily wage employment on the ground non-production of genuinity of service certificate is highly illegal, arbitrary, unreasonable, discriminatory and also without any application of mind and also in violation of Articles 14, 16 and 21 of the Constitution of India and declare the same as bad in law and set aside the same and consequently direct the respondents to provide daily wage employment as per their own orders dated 21.03.2018.....”

Heard Mr.C.Raja Sekhar Reddy, the learned counsel for petitioners and the learned Government Pleader for Services-II.

It has been contended by the petitioners that they were appointed as daily wage workers during the years 1980 to 1984 and thereafter, their services were discontinued. Aggrieved by the same, the petitioners have filed W.P.No.97 of 1988 before the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to dispose of the said writ petition vide order dated 01.12.1994 in terms of its earlier order dated 25.08.1987 passed in W.P.No.793 of 1987. Even after disposal of the said writ petition, the cases of petitioners were not considered for appointment on daily wage basis. Thereafter, the petitioners have been making repeated representations to the respondents to consider their cases for engaging them on daily wage basis. The 3<sup>rd</sup> respondent vide

order dated 24.03.2018 was pleased to recommend the cases of the petitioners to the 2<sup>nd</sup> respondent, however the 3<sup>rd</sup> respondent himself vide order dated 23.05.2018 rejected the cases of the petitioners instead of considering their cases for engaging on daily wage basis, as per the recommendations made by him.

Learned counsel for the petitioners submits that, in fact, the 3<sup>rd</sup> respondent having recommended the cases of the petitioners for providing employment on daily wage basis vide proceedings dated 24.03.2018, the very same authority ought not to have rejected the cases of petitioners for providing employment on daily wage basis vide proceedings dated 23.05.2018. Therefore, the impugned order is liable to be set aside as it was passed by the 3<sup>rd</sup> respondent without application of mind and without taking into account his own proceedings dated 24.03.2018 recommending the cases of petitioners for providing employment on daily wage basis. Therefore, the learned counsel submits that appropriate orders be passed in the writ petition directing the 2<sup>nd</sup> respondent to consider the recommendations made by the 3<sup>rd</sup> respondent on 24.03.2018 and pass appropriate orders in accordance with law by duly taking into account the judgment rendered by the Hon'ble Supreme Court in W.P.No.97 of 1988 dated 01.12.1994.

The learned Government Pleader appearing for the respondents contends that the records of the year 1988 are not available, as the old records will be destroyed periodically, after a lapse of three years. It is contended that since the petitioners have approached the respondents after a lapse of 25 years, by which time, the old records have already been destroyed, the cases of the petitioners cannot be considered, at this point of time. But the

fact remains that since the 3<sup>rd</sup> respondent has recommended the cases of the petitioners to the 2<sup>nd</sup> respondent, the 2<sup>nd</sup> respondent would consider the recommendations made by the 3<sup>rd</sup> respondent and pass appropriate orders in accordance with law.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the impugned order dated 23.05.2018 passed by the 3<sup>rd</sup> respondent is liable to be set aside and the same is accordingly set aside. The 2<sup>nd</sup> respondent is directed to consider the recommendations made by the 3<sup>rd</sup> respondent on 24.03.2018 and pass appropriate orders in accordance with law 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.

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ABHINAND KUMAR SHAVIL, J

Date: 02-08-2019  
Prv

