

BASAVRAJ
GURAPPA
PATIL

Digitally
signed by
BASAVRAJ
GURAPPA
PATIL
Date:
2023.03.29
18:56:25
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 512 OF 2023

Ankita Giridhar Gopal Gupta

..... Petitioner

Vs.

Oil and Natural Gas Corporation Ltd. & Ors. Respondents

Mr. Vicky Nagrani for the Petitioner

Mr. Girish Paryani I/b. A & G Legal Associates LLP for Respondent
Nos.1 to 4

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : MARCH 27, 2023

ORAL ORDER (PER : ACTING CHIEF JUSTICE)

1. Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2. The Petitioner was employed with the Respondents under appointment order dated 29th June 2022 which according to the learned Counsel, it was served upon the Petitioner on 6th July 2022. On or about 12th October 2022, a show cause notice was issued to the Petitioner asking the Petitioner to show cause, as to why her services shall not be terminated. The Petitioner replied to the show cause notice. Under order dated 2nd December 2022, the services of

the Petitioner are terminated. The services of the Petitioner stood terminated on the ground that the declaration/information furnished by the Petitioner is proved to be false and/or the Petitioner has willfully suppressed the material information as per clause (xii) of the terms and conditions of the appointment order dated 29th June 2022.

3. It is the case of the Respondents that the Petitioner suppressed the factum of being in employment with NTPC prior to joining the Respondents. In view of the suppression, the Petitioner was terminated.

4. The learned Counsel for the Respondents submits that on the date the Petitioner applied to the Respondents, the Petitioner was not in employment of any other institution. The interviews were conducted virtually. According to the learned Counsel, on 6th July 2022 i.e. before joining, the Petitioner informed the Respondent - Oil and Natural Gas Corporation Ltd. (for short “**the ONGC**”) that at the time of interview she did not mention about her working with NTPC because she was under the training period. The Petitioner wanted to know, if she could transfer her bond from NTPC to ONGC. On or about 11th July 2022, the Sr. HR Executive of ONGC communicated to the NTPC that the service bond transferred from the NTPC to ONGC of

Rs.2,50,000/- shall be acceptable to the ONGC and thereafter the Petitioner joined. The Petitioner tendered resignation to NTPC on 16th July 2022 which was accepted. According to the learned Counsel, there is no suppression on the part of the Petitioner.

5. The learned Counsel for the Respondents submits that at the time of interview the Petitioner was required to submit an NOC of the employer. Clause (xv) of the interview letter provided for the same.

6. The learned Counsel further submits that on the day of interview the Petitioner was in service with the NTPC. The said fact was suppressed. As such, rightly, the action has been taken in terms of the appointment order. The learned Counsel relies on clause 7 of the ONGC Conduct, Discipline and Appeal Rules 1994. According to the learned Counsel for the Respondents, the Petitioner was on probation. As the Petitioner was on probation, the Petitioner is terminated in terms of the appointment. There is no prohibition for terminating the employee during probation, even without issuing a notice. Still the Respondents issued show cause notice to the Petitioner in observance of the principles of natural justice. No illegality is committed by the Respondents in dispensing with the services of the Petitioner.

7. The chronology of events will have to be considered. The

advertisement was issued by the Respondents for filling up of the post of Assistant Executive Engineer (Mechanical) at E1 Level in September 2021. The Petitioner, pursuant to the same, filled in the form on or about 24th September 2021. The interviews, it appears, were held on 1st March 2022.

8. On or about 21st October 2021, the Petitioner was selected as an Executive Trainee at NTPC. On or about 29th June 2022, the appointment order was issued to the Petitioner by the Respondents. According to the Petitioner, the same was received on 6th July 2022. On receipt of the appointment order, the Petitioner, on the same day, communicated to the Respondents that the Petitioner has joined the NTPC as a Trainee and enquired about the transfer of the bond from NTPC to ONGC. On 11th July 2022, Respondents, through their Sr. HR Executive intimated the Petitioner that they are ready to accept the transfer of the bond from NTPC. On 19th July 2022, the Petitioner submitted her resignation with NTPC and she was released. The Petitioner joined Respondent No.1 on 20th July 2022.

9. It is worth considering that the letter of the Respondents accepting the transfer of the bond from NTPC is directly addressed to the NTPC by ONGC and thereafter on 1st August 2022, the appointment order was issued by the Respondent - ONGC to the

Petitioner.

10. It would appear that before joining, the Petitioner intimated the Respondent ONGC that the Petitioner is selected as an Executive Trainee and working as such with NTPC and also asked whether the bond can be transferred. Upon positive response from the Respondent ONGC that the bond would be transferred from the NPTC, the Petitioner joined the services with Respondent ONGC and that too after receiving relieving order from the NTPC. It is not the case that the Petitioner, before joining the services, had not disclosed about the Petitioner working as an Executive Trainee with NTPC. More particularly, even a request was made for transfer of the service bond from NTPC to ONGC and the Respondent ONGC positively replied that the bond would be transferred. Only after that the Petitioner was allowed to join with the Respondent. It would appear that the Petitioner had not suppressed the fact of employment. As such, the ground of false declaration made by the Petitioner and for that the Petitioner has to be terminated, is incorrect.

11. It is true that the Petitioner is under probation and the Respondents have every right to relieve the Petitioner from the services during probation without assigning reasons. However, if

dispensing with the services of an employee during probation is due to a stigmatic ground then a procedure is required to be followed including that of the departmental inquiry. The Petitioner is removed from service on the ground that the Petitioner has suppressed the fact of her working with NTPC and gave a false declaration that the Petitioner was in employment with the NTPC. This ground does not appear to be proper and not in consonance with the factual matrix of the case.

12. We would certainly have not entertained the Writ Petition had the order of simplicitor termination of service during probation period would have been challenged, however, the order appears to be stigmatic. The termination order on the ground of suppression of facts of earlier employment is incorrect.

13. In light of the above, the impugned order of termination is quashed and set aside. Necessary consequences shall follow.

14. Rule is accordingly made absolute.

15. The Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)