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W.P.No.15474 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.15474 of 2013

and

M.P.No.1 of 2014 & W.M.P.No.575 of 2018

S.K.Ramu

.... Petitioner

VS

1. The Chief Commissioner for Persons
with Disabilities,
Sarojini House,
6, Bhagwan Dass Road,
New Delhi - 110 001

2. Chennai Petroleum Corporation Ltd.
rep. by its Company Secretary,
Manali,
Chennai - 600 068.

3. Industrial Co-operative Service Society,
CPCL Campus, Manali,
Chennai - 600 068.

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a
Writ of Certiorarified Mandamus to call for the records relating to Case
no.17/1014/11-12/R2597 dated 05.04.2013 passed by the 1st respondent



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and quash the same and to direct the 1st respondent to conduct an enquiry and pass orders in the petitioner's complaint No.17/1014/11-12 on merits within the time limit stipulated by this Court.

For Petitioner : Mr.Giridhar

For Respondents : Mrs.S.Mythrete Chandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent dated 05.04.2013 and to direct the 1st respondent to conduct an enquiry on the petitioner's complaint on merits within the time limit stipulated by this Court.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. i) The case of the petitioner is that the 2nd respondent is a public sector undertaking engaged in the manufacture and distribution of petroleum product and the main object of the 3rd respondent Society is to take up and execute various works entrusted by the 2nd respondent. There are presently more than 262 employees in the 3rd respondent Society. The petitioner joined the 3rd respondent as a contract labourer in 1981 and thereafter, he was working as unskilled labourer, house keeper, Plumber and



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also worked in the Wax Department. In 1990, the petitioner suffered from Mycetoma (LF) and was admitted in Government Stanley Medical College Hospital and his left leg was amputated below the knee and artificial limb was placed. He suffering permanent disability of 60% and entitled to all allowances and concessions. His physical disability was fixed at 60% disability. He is in continuous service in the 3rd respondent society as unskilled labourer for the past 26 years. Even after being declared physically disabled, he has been working with the aid of artificial leg.

ii) The 2nd respondent company has been absorbing labourers working in the 3rd respondent society as permanent labourers irrespective of educational qualification. Therefore, the petitioner sought absorption in the 2nd respondent company. The petitioner directly and indirectly represented to the 2nd respondent for absorption in the company as permanent worker. But the same was denied on the ground that the petitioner was physically disabled. When compared to the labour benefits of the employees of 2nd respondent company, the labour benefits available to the employees of the 3rd respondent is meager. The employees of the 2nd respondent company are entitled to Housing loan, Two wheeler loan, medical Claim etc. which is denied to employees of 3rd respondent society.



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The 2nd respondent absorbed more than 300 employees to the 3rd respondent society between 1985 to 1998. Many juniors to the petitioner were absorbed by the 2nd respondent, irrespective of the education qualification of the members. Failure to absorb the petitioner by the 2nd respondent company is discrimination and in violation of Article 14 of the Constitution of India and also Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995.

iii) The petitioner filed a complaint before the 1st respondent seeking a direction to the 2nd respondent to absorb him in their company and regularise his service with effect from 17.02.1994. However, he received a letter dated 27.03.2013 from the 1st respondent stating that since the subject matter is sub-judice and pending before the High Court, the 1st respondent decided not to intervene with the complaint of the petitioner. The petitioner also sent reply dated 10.11.2013.

iv) One Mr.Vijaykumar and Mr.E.Sheshadri who were employees of 3rd respondent filed a complaint before the Commissioner for Persons with Disabilities. By order dated 30.01.2009, the 1st respondent disposed of the complaint. Against the order passed by the 1st respondent, the 2nd and 3rd respondents preferred a writ petition in W.P.No.4368 of 2009. This Court,



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by order dated 29.1.2010, granted monetary benefits to the said two persons by way of interim direction in W.A.No.117 of 2010 and by order dated 26.4.2012 this Court disposed of W.P.No.4368 of 2009 to consider the case of Mr.Vijaykumar and Mr.E.Sheshadri. Against the order dated 26.04.2012, writ appeal in W.A.No.354 of 2013 was filed and in the writ appeal Mr.Vijaykumar and Mr.E.Sheshadri was granted an interim order to continue to derive monetary benefits granted to them by order dated 29.01.2010 in W.A.No.117 of 2010, pending disposal of the writ appeal in W.A.No.354 of 2013. However, the 1st respondent passed the impugned order dated 05.04.2013 stating that since the subject matter is sub-judice and pending before the High Court, the 1st respondent decided not to intervene with the complaint of the petitioner. Hence, the present writ petition.

4. It is the contention of the petitioner that it is the bounden duty of the 1st respondent to consider each and every complaint preferred before him independently based on the facts of that case and refusing to pass orders on the petitioner's complaint is tainted with non-application of mind. The impugned order is arbitrary and violative of the petitioner's rights under Article 14 and 21 of the Indian Constitution read with section 59 of the



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Persons with disabilities Act and Rule 42 of the Persons with Disabilities Rules.

5. It is pertinent to note that the identical case cited in the impugned order is a lis between similarly placed persons i.e., Vijaykumar, E.Sheshadri and the 2nd and 3rd respondents but not between the petitioner and 2nd and 3rd respondents. The petitioner is not a party to W.A.No.345 of 2013. Therefore, this Court is of the view that there is no bar for the 1st respondent Commission to pass orders on the petitioner's complaint on merits.

6. Accordingly, the Writ Petition is allowed. The impugned order dated 05.04.2013 is set aside. The matter is remitted back to the 1st respondent to consider the complaint of the petitioner afresh and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No
Speaking/Non-speaking order
vsi



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