



W.P.No.21719 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 19.03.2024**

**CORAM**

**THE HONOURABLE MRS. JUSTICE N.MALA**

**W.P.No.21719 of 2018 and**  
**W.M.P.Nos.25489 of 2018**  
**and 11421 of 2019**

C.Ramasamy

...Petitioner

Vs.

1. NLC India Ltd  
Represented by its Chairman  
Corporate Office,  
Neyveli – 607 801.

2. The Director (Human Resource)  
H.R.Department, Corporate Office  
NLC India Ltd  
Neyveli - 607 801.

3. The Managing Director  
NLC INDCO SERVE  
Old C.M.C Complex  
(Opp. Thermal Power Station – II)  
Neyveli – 607 801

4. The Chief General Manager,  
Mine-I A, Field Office, Block – 26  
NLC India Ltd.,  
Neyveli – 607 801.



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5. P.N.Viswanathan

6. S.Muthusamy

...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to absorb the petitioner as employee of the first respondent with effect from 16.02.2006 and regularize the petitioner's services in the first respondent corporation from 16.02.2006 with all consequential and attendant service benefits.

For Petitioner : M/s.V.Rajeswari  
For R1 and R2 : Mr.Nithianandam

### **ORDER**

The writ petition is filed for a writ of mandamus directing the respondents 1 to 4 to absorb the petitioner as employee of the first respondent with effect from 16.02.2006 and regularize the petitioner's services in the first respondent corporation from 16.02.2006 with all consequential and attendant service benefits.

2. The petitioner joined the services of the third respondent in the year 1991 as unskilled labour on compassionate basis after the demise of his father, who was employed under the first respondent as Gangman/Water supply through the third respondent (Contractor). In the year 2004, a criminal case was registered against the petitioner along with few others and the petitioner



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was arrested by the Neyveli Township Police. The third respondent, therefore passed an order on 19.04.2004, stopping the petitioner from reporting to work with immediate effect, until further orders. Thereafter, pending Criminal case in S.C.No.61 of 2005 on the file of the Sessions Court, Cuddalore the petitioner was reinstated in service by the third respondent on 28.01.2005.

3. In 1995, a settlement was reached between the first respondent and the third respondent (Contractor) in which the first respondent agreed to absorb the third respondent (INDCOSERVE) workers in stages. As per the settlement, the contract workers of the third respondent were to be absorbed and regularized by the first respondent on seniority basis.

4. The said settlement was upheld by the Hon'ble Division Bench of this Court in W.A.No.2045 and 2529 of 2002. In pursuance of the settlement, the first respondent periodically regularized the contract workers of the third respondent by absorption whenever vacancies arose subject to their fulfillment of requisite age and other educational qualifications.

5. In September 2005, a list of contract workers was prepared and the first respondent Corporation called those contract workers for medical checkup and interview. The petitioner was one among the workers who were called for medical examination for regularization under the first respondent. Along with



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the petitioner, respondents 5 and 6 were also called for interview and medical  
checkup on 11.09.2005.

6. The petitioner submitted the required Form to the third respondent for relieving him from the services of the third respondent so as to enable the petitioner to join the services of the first respondent. While so, before receiving the order of regularization from the first respondent, the petitioner was again taken into custody by the Neyveli Township Police to undergo imprisonment in pursuance of the order of conviction and sentence passed by the learned Sessions Judge, Cuddalore dated 17.11.2005 in S.C.No.61 of 2005 for the offences under Section 364, 302 and 201 of I.P.C r/w. Section 34 of I.P.C.

7. The petitioner preferred a Criminal appeal before the Hon'ble High Court in C.A.No.1009 of 2005 and the same was dismissed. Thereafter the petitioner filed a Special Leave Petition before the Hon'ble Supreme Court and the same was allowed. On 01.07.2014, the Hon'ble Supreme Court allowed C.A.No.512 of 2010. Thereafter, the petitioner repeatedly approached the first respondent for regular employment on par with the respondents 5 and 6.

8. The petitioner was orally informed to join the services of the third respondent till the regular employment was given by the first respondent. The petitioner joined the third respondent vide proceedings dated 29.11.2014.



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Thereafter the petitioner states that inspite of repeated reminders and representations to the first respondent for regularizing the services, the first respondent did not reply. Therefore the petitioner was constrained to file the above writ petition.

9. The case of the respondent was that the writ petition was hit by the principles of delay and laches. It was further stated that the 12(3) settlement did not confer any right on the petitioner and even otherwise for the alleged right which accrued in 2005, the writ petition filed in the year 2018 after delay of 13 years was barred by laches. It was stated that the petitioner was under incarceration between 17.11.2005 and 01.07.2014 pursuant to the order of conviction and sentence in the criminal case and even when the writ petition was filed, the petitioner was under the employment of the third respondent - Society.

10. It was further stated that as per the policy decision of the respondent, the Contractors were directed not to engage contract workers who attained 58 years of age. The petitioner had reached the age of superannuation on 19.08.2018 and therefore after 19.08.2018, the petitioner was not engaged by the third respondent for any of its work. The respondent stated that the 12(3) settlement reached on 18.05.1995 between the respondent and the recognized



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Unions for absorption of contract workers of the third respondent was subject to conditions stated therein. The said 12(3) settlement was challenged before this Court and this Hon'ble Court in judgment dated 15.05.2002 did not interfere with the 12(3) settlement, instead directed that the regularization should be based on seniority. The said judgment was challenged before the Hon'ble Division Bench of this Court. The Hon'ble Division Bench dismissed the writ appeal preferred by the respondent. The judgment of the Division Bench was challenged before the Hon'ble Supreme Court in Civil Appeal No.1629 of 2011 by the respondents. In pursuance of the order in C.A.No.1629 of 2011 (S.L.P No.9807 of 2008) by order dated 16.08.2010, a provisional seniority list of the contract workers was prepared by the respondent. Meanwhile in the Criminal appeal filed by the petitioner before the Hon'ble Supreme Court in Criminal Appeal No.512 of 2010 the petitioner was acquitted by giving the benefit of doubt vide judgment dated 01.07.2014.

11. It was further stated that the petitioner assumed that as the petitioner was called for interview and medical examination in the year 2005 he would be entitled for regularization. The respondent was under imprisonment till 2014 in pursuance of the order of conviction and sentence in the criminal case. According to the respondents, the petitioner had no right to claim the relief



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sought in the writ petition and that too after attaining the age of superannuation. On these grounds, the respondent prayed for dismissal of the writ petition.

12. The learned counsel for the petitioner submits that the petitioner was called for interview and medical examination along with respondents 5 and 6. The respondents 5 and 6 were regularized whereas the petitioner was denied regularization. The learned counsel further submits that the denial of regularization to the petitioner was unsustainable because on the date when the petitioner attended the interview and underwent medical checkup, he was eligible for employment along with respondents 5 and 6. The learned counsel further submitted that the contention of the respondents that because of the intervening conviction and sentence in the criminal proceeding, the petitioner was denied employment cannot be accepted, because the petitioner was honourably acquitted by the Hon'ble Supreme Court. The learned counsel further submits that if the regularization orders of the respondents 5 and 6 are produced, the petitioner's stand would be established that on the date of regularization of the respondents 5 and 6, the petitioner was also entitled to regularization.

13. The learned counsel for the respondent on the other hand submits



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that the petitioner was not honourably acquitted, but was acquitted on benefit of doubt only by the hon'ble Supreme Court. The learned counsel further submits that the respondents 5 and 6 were regularized on 16.02.2006 and on that date, the petitioner was under imprisonment for the criminal conviction and sentence in S.C.No.61 of 2005. The learned counsel therefore submits that the contention of the petitioner that on the date when the regularization order was passed regularizing the respondents 5 and 6, the petitioner was also eligible for regularization and therefore the conviction and sentence in the criminal case would not be a bar for the petitioner from claiming regularization cannot be countenanced.

14. Heard both the counsels and perused the materials available on record.

15. The facts of the case are that the petitioner was employed as a contract labour in relation to the work of the first respondent and in the 12(3) settlement between the first and third respondent, it was agreed that contract labourers would be absorbed and regularized by the first respondent. The said settlement was challenged upto the Hon'ble Supreme Court and upheld. The crux of the issue is whether the conviction and sentence of the writ petitioner between the period of his interview and medical checkup and regularization



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orders would bar the petitioner from seeking the relief claimed. The petitioner claims that if the order of the regularization of the respondents 5 and 6 is produced, then it would be clear that on the date when the regularization order was passed, the petitioner was equally entitled as the respondents 5 and 6. In this regard, order of the respondent dated 16.02.2006 is relevant. In the said order, it is clearly stated that the provisional appointment as Industrial Worker Grade-II/Trainee/Cleaner/Trainee was granted to the respondents 5 and 6 along with other workers on 24.01.2006 after the orientation training at the Training complex from 27.01.2006 to 01.02.2006. They were reposted to work as such in Mine-II. Therefore, it is clear that from the said order that provisional appointment was given to the respondents 5 and 6 on 24.01.2006 on which date admittedly the petitioner was undergoing sentence in the criminal case. Therefore the contention of the petitioner that on the date when respondents 5 and 6 were regularized, the petitioner was entitled to be regularized, only because he had attended interview and also medical checkup cannot be accepted. Apart from the interview and medical checkup, there was a training programme to be attended which admittedly the petitioner did not attend because of the criminal conviction and sentence. The contention of the learned counsel for the petitioner that the acquittal of the petitioner in C.A.No.512 of



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2010 was honourable cannot also be accepted because the Hon'ble Supreme Court in the said judgment at Para 24 stated that,

*“the prosecution case is also doubtful, there being contradiction about place where the accused were last seen with the deceased.”*

16. It is further pertinent to note here that even in the prayer in the writ petition, the petitioner sought for direction for his absorption with effect from 16.02.2006 which means that the petitioner is very much aware that the regularization of the respondents 5 and 6 was from 24.01.2006 on which date he was under imprisonment. In view of the above facts I find that the relief claimed by the petitioner cannot be granted.

17. For all the above reasons, I find no merits in the writ petition and accordingly the writ petition is dismissed. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

**19.03.2024**

Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No  
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To

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Industrial Canteen, Mines  
NLC India Ltd., Neyveli
6. S.Muthusamy  
Industrial Worker Grade – II  
Industrial Canteen, Mines  
NLC India Ltd  
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**N.MALA,J.**

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