

Mini C.G. Vs. State of Kerala

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Court : Kerala

Decided On : Aug-26-2014

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : Mini C.G.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR TUESDAY, THE 26TH DAY OF AUGUST 2014 4TH BHADRA, 1936 WP(C).No. 20462 of 2013 (G) ----- PETITIONER(S): ----- 1. MINI C.G. W/O.RAMAKRISHNAN, KANAKKASSERY HOUSE, ELINJIPRA P.O THRISSUR DISTRICT.

2. SULOCHANA K.K, W/O.SHAJI, KUNNAMPARAMBIL HOUSE, ELINJIPRA P.O THRISSUR DISTRICT.

3. VIJI.M.P W/O.SREEDHARAN, VIRUTHI HOUSE, ELINJIPRA P.O THRISSUR DISTRICT.

4. BINI.K.J, W/O.RAPHEL, ILLICKAL HOUSE, CHANDANAKUNNU P.O THRISSUR DISTRICT. BY ADV. SMT.K.V.BHADRA KUMARI RESPONDENT(S): ----- 1. STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT DEPARTMENT OF AGRICULTURAL FARMS, SECRETARIAT

THIRUVANANTHAPURAM.

2. KERALA AGRICULTURAL UNIVERSITY, REPRESENTED BY ITS REGISTRAR, VELLANIKARA THRISSUR DISTRICT, PIN-680 656.

3. THE REGISTRAR, KERALA AGRICULTURAL UNIVERSITY REPRESENTED BY ITS REGISTRAR, VELLANIKARA THRISSUR DISTRICT, PIN-680 656.

4. PROFESSOR AND HEAD OF THE DEPARTMENT, AGRONOMIC RESEARCH STATION, CHALAKUDY P.O CHALAKUDY - 680 307. R1 BY ADV. GOVERNMENT PLEADER, SRI.A.J.JOSE AEDAIDI, R2-R4 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC, BY ADV. SRI.P.T.ABHILASH,SC., THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-08-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 20462 of 2013 (G) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1: TRUE COPY OF THE COVERING LETTER NO.ARS B/1025/10 ISSUED BY THE 3D RESPONDENT TO THE 2D RESPONDENT. EXHIBIT P2: TRUE COPY OF THE COMMON

JUDGMENT

RENDERED BY THIS HON'BLE COURT IN W.P.(C) NO:13870/2010 & 18640/10. EXHIBIT P3: TRUE COPY OF THE

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OF THIS HON'BLE COURT IN W.P.(C) NO:25524/2010 DATED 20.8.2010. EXHIBIT P4: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS AND OTHERS DATED 16.2.2010 BEFORE THE 2D AND 3D RESPONDENT. EXHIBIT P5: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 2D RESPONDENT UNIVERSITY DATED 11.2.2011. EXHIBIT P6: TRUE COPY OF THE

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DATED 25.1.2011 IN W.P.(C) NO:2323/2011 OF THIS HON'BLE COURT. EXHIBIT P7: TRUE COPY OF THE SELECT LIST FOR CASUAL LABOURERS VALID FOR THREE YEARS FROM 16.5.2013 PREPARED BY THE 2D RESPONDENT.

EXHIBIT P8: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 3D RESPONDENT DATED 23.5.2013. EXHIBIT P9: TRUE COPY OF THE MARKS OBTAINED BY THE SELECTED CANDIDATES IN EXHIBIT P7 SELECT LIST AS OBTAINED UNDER THE R.T.I.ACT. RESPONDENT(S)' EXHIBITS: NIL ----- //TRUE COPY//
P.A TO JUDGE A.K.JAYASANKARAN NAMBIAR, J.

..... W.P.(C)No.20462 of 2013
..... Dated this the 26th day of August, 2014

JUDGMENT

The petitioners are daily wage Farming Labourers under the Agronomic Research Station of the 2nd respondent University. They were appointed on contract basis and were continuing as such for more than 6 years on periodic spells. In the writ petition, it is stated that, pursuant to details obtained from the 3rd respondent as regards the workers who could be considered for regularisation, a list came to be drawn up by the 2nd respondent indicating the names of those workers who could be regularised. Ext.P1 is the letter under cover of which the said list was forwarded by the 3rd respondent to the 2nd respondent. Thereafter, when nothing was done by the 2nd respondent University to regularise the contract workers, many of them approached this Court through writ petitions seeking the benefit of the decision of the Supreme Court in the case of Secretary, State of Karnataka and Others v. Umadevi and Others [(2006) 4 SCC1. Those writ petitions came to be disposed by Exts.P2 and P3 judgments whereby the respondents were directed to consider the representations of the petitioners therein, in the light of the decision of the Supreme Court referred to above. When, despite the directions of this Court, the 2nd respondent was found to be taking steps to appoint a fresh W.P.(C)No.20462 of 2013 2 set of Casual Labourers, the petitioners preferred Exts.P4 and P5 representations before the respondents seeking a consideration of their case for regularisation. There was no action forthcoming from the respondent University. This prompted the petitioners to prefer W.P.(C).No.2323 of 2011 seeking a direction to the respondents to consider the petitioners for recruitment as Casual Labourers during the period from 24.01.2011 to 27.01.2011, if

necessary by relaxing the age requirements. The said writ petition was disposed by Ext.P6 judgment, directing the respondents to consider the claim of the petitioners while recruiting Casual Labourers, in the light of the decision of the Supreme Court in Umadevi's case. It would appear that based on Ext.P6 judgment, the 2nd respondent considered the case of the petitioners and, thereafter, prepared a list of qualified hands for recruitment as Casual Labourers. The said list is produced as Ext.P7 and is impugned in the writ petition, inter alia on the ground that the 2nd respondent, while drawing up the said list, had not given due consideration to the experience possessed by the petitioners and also that the action of the respondents was contrary to the directions in Exts.P2 , P3 and P6 judgments.

2. The respondents have filed a counter affidavit wherein they take the stand that the petitioners are only contract workers, W.P.(C)No.20462 of 2013 3 and have no right for regularisation. It is pointed out that the respondents had relaxed the requirement of age in respect of the petitioners and had considered them along with others while drawing up the list of Casual Labourers for appointment under the respondent University. It is stated that the petitioners had been informed that they would be given age relaxation in upper age limit, if they did not cross the retirement age, and weightage based on their period of work, while considering their application for selection as Casual Labourers. This, however, was conditional on their producing a work experience certificate from the authorities concerned to show that they had worked on daily wage/contract basis and also subject to their establishing that they were otherwise qualified for selection to the post. In this view of the matter, the stand of the respondents is that insofar as the 1st and 3rd petitioners did not qualify at the interview, for inclusion in the rank list, they could not have a claim for appointment as a Casual Labourer. The 2nd and 4th petitioners have been included in Ext.P7 list and, therefore, to that extent their grievance stands redressed. In reply, the petitioners would rely on Ext.P9 document produced by them to show that, at the time of conducting interview, candidates with lower marks had been placed above those with higher marks in the rank list although the said list would show that the 2nd and 4th petitioners were included in the list. The W.P.(C)No.20462 of 2013 4 petitioners rely on the this discrepancy to contend that the selection process, resorted to by the respondents,

was inherently arbitrary and had therefore to be set aside.

3. I have heard Smt.K.V.Bhadra Kumari, counsel for the petitioners and Sri.P.T.Abhilash, the learned Standing counsel for the respondent University.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I am of the view that the writ petition must necessarily fail. This is a case where the petitioners were admittedly working as Contract Labourers for specified periods under the 2nd respondent University. Their claim for regularisation had been considered by this Court on earlier occasions and through Exts.P2 and P3 judgments, this Court had directed the respondents to consider their case in the light of the judgment of the Supreme Court in the case of Secretary, State of Karnataka and Others v. Umadevi and Others [(2006) 4 SCC1. It is apparent, therefore, that a consideration of their claim for regularisation could only be to a regular sanctioned post under the 2nd respondent University and subject to the condition that the petitioners fulfilled the eligibility requirements for the post in question. No doubt, it would have been open to the petitioners to W.P.(C)No.20462 of 2013 to claim age relaxation when the respondents opted for a regular recruitment in accordance with the Rules prevailing in the respondent University. In the instant case, however, the recruitment itself was for selecting labourers on contract basis. There is no suggestion in the writ petition as regards the resort, by the respondents, to any unfair labour practice which could be inferred from a long and continuous appointment of contract labourers and which could point to the need for a regular post in the establishment. That being the case, the rights of the petitioners have to be viewed in the context of a selection for appointment of labourers on contract basis. When thus viewed, it is seen, that pursuant to the directions of this Court in Ext.P6 judgment, the respondent University had considered the case of the petitioners, along with others, for inclusion in the list of candidates drawn up for the purposes of appointment on contract basis. As a matter of fact, the 2nd and 4th petitioners do find a place in the said list. The specific stand of the respondents is that petitioners 1 and 3 did not make it to the list solely on account of their poor performance at the interview, that was held in connection with the selection. Under these circumstances, taking into account the fact that the case of the petitioners

was in fact considered by the 2nd respondent by relaxing the age criteria and also assessing their performance in an interview that was held, the W.P.(C)No.20462 of 2013 6 petitioners cannot have any grievance against the actions of the respondent University. In the absence of any sanctioned posts to which a regular recruitment has been undertaken by the respondent University, the petitioner cannot have any claim for regularisation either. This is also on account of the fact that there is no material on record to infer a long and continuous service of the petitioner against a regularly sanctioned post under the 2nd respondent University. The petitioners have not made out a case warranting the interference by this Court with the selection process undertaken by the 2nd respondent University and hence, the writ petition fails and is accordingly dismissed. No costs. A.K.JAYASANKARAN NAMBIAR JUDGE mns/

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