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R.Vijayan Vs. Director of Sugars

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Court : Chennai

Decided On : Feb-18-2013

Judge : T.RAJA

Appellant : R.Vijayan

Respondent : Director of Sugars

Judgement :
IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED 18 02.2013 CORAM THE HONOURABLE MR. JUSTICE T.RAJA W.P.No.31110 o

1. R.Vijayan 2.G.Panneer Selvam 3.A.Kalaiselvam 4.P.Elango .. Petitioners vs. 1.The Director of Sugars, E.V.R.Periyar Maligai, 690, Anna Salai, Nandanam, Chenna

035. 2.The Special Officer, Vellore Co-operative Sugar Mills Ltd., Vellor

519. .. Respondents Writ petition filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus to direct the respondents to consider the regularisation of the petitioners on the basis of the recommendation of the second respondent dated 31.05.2005, 29.06.2005 and 27.07.2005 on the representations of the petitioners dated 04.04.2005, 13.06.2005 and 21.06.2005. For Petitioners ... Mr.M.Govindaraaj For 1st ... Mr.S.V.Durai Solaimalai Respondent Addl. Government Pleader For 2nd ... Mr.K.Rajasekaran Respondent ORDER The present writ petition has been filed by four persons

jointly for a similar relief for issuance of Writ of Mandamus directing the respondents 1 and 2, the Director of Sugars, Chennai and the Special Officer, Vellore Co-operative Sugar Mills, Vellore to consider the regularisation of the petitioners on the basis of the recommendation made by the second respondent dated 31.5.2005, 29.06.2005 and 27.07.2005 on the representation of the petitioners dated 4.4.2005, 13.06.2005 and 21.06.2005. 2.The learned counsel for the petitioners has submitted that the four petitioners were originally employed as Seasonal employees in Vellore Co-operative Sugar Mills, the second respondent herein. The first, second and third petitioners were appointed as Junior Clerk. The fourth petitioner was employed as Messenger as he had the qualification of old SSSLC. 3.It was also the case of the petitioners that the Government of Tamil Nadu issued a G.O.Ms.No.188 P & AR Department, dated 28.12.1976 stating that employment would be given to those persons, who have given their lands to the Government for public purpose. In this connection, Similarly, the Government of India also issued a letter not F.8(4)/LP/77, dated 15.01.1977 to provide employment to the displaced persons in Public Sector as well as in Private Sector establishment. In view of the above orders passed by both the State and Central Governments, the petitioners have given their valuable lands for establishing Sugar Mills. Thereafter, the Government of Tamil Nadu has issued another G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978 setting out the procedure of recruitment. 4.While they were working as seasonal employees, the second respondent/Special Officer called for details from the Employment Exchange and appointed the first, second and third petitioners as Junior Clerk on 11.11.1987, 11.01.1985 and 03.06.1982 respectively and appointed the fourth petitioner as Messenger on 13.08.1994 and they are continuously working in their posts. Hence, they made a claim that are eligible to hold their posts on regular basis. 5.It was further submitted that out of four petitioners, three of them have been regularised during the pendency of the writ petition. 6.Mr.K.Rajasekaran, learned counsel appearing for the second respondent has produced the proceedings issued by the second respondent/Special Officer, Vellore Co-operative Sugar Mills Ltd., Vellore in Rc.No.992/2011-A1, dated 16.03.2012 regularising Vijayan, the first petitioner as Junior Clerk (Regular) in the existing vacancy along with other nine Junior Clerks

(Seasonal). The relevant portion of the said order is extracted hereunder: "ORDER: The following Junior Clerks (Seasonal) are selected by the Selection Committee for appointment as JUNIOR CLERK (Regular) in the existing vacancies. Sl.No. E.No. Name of the Jr. Clerk (Seasonal

282. R.Vijaya

296. P.Muthukumarasam

299. A.Vinayaga

300. B.Srinivasa

302. D.Chandrakesa

304. M.Parasurama

305. A.Peruma

306. D.Venkatesal

399. A.Rav

398. M.Selvaseka

1029. J.Rajendran The Seniority of the above individuals in the post of Junior Clerks (Regular) will be in the above order. The postings of the regular places will be issued later." 7.Similarly, one another proceedings in Rc.No.992/2011-A1, dated 5.1.2012 was issued by the second respondent/the Special Officer, Vellore Cooperative Sugar Mills, which shows that the third petitioner, A.Kalaiselvam, Cane Yard Supervisor (Seasonal) was selected by the Selection Committee for appointment as Cane Yard Supervisor (Regular) in the existing vacancy. 8.By yet another proceedings in Rc.No.992/A1/2011, dated 30.01.2013 issued by the second respondent/the Special Officer, Vellore Co-operative Sugar Mills, the third petitioner, P.Elango, Messenger (Seasonal) was temporarily promoted and posted as Store Issue Boy (Regular) without any change in his Grade, Scale of pay and basic pay. 9.That apart, one another proceedings in Na.Ka.No.992/2011/A1, dated

9.6.2012 issued by the same Special Officer, Vellore Co-operative Sugar Mills shows that the request of the second respondent for regularisation of his appointment could not be considered for the reason that he is not holding diploma in Co-operative training. While rejecting the second petitioner, Panneer Selvam for regularisation, two reasons have been completely ignored by the second respondent, Special Officer namely, (i) from the date of his appointment, he has been working along with other petitioners and (ii) when the regularisation of appointment has been made to other three writ petitioners, it has not been denied by the second respondent, Special Officer that the second petitioner also has given his land for construction of Sugar Mills like the other three petitioners. 10.Therefore, when the G.O.Ms.No.188 P & AR Department, dated 28.12.1976 issued by the Government of Tamil Nadu clearly shows that the land sufferers should be have been given employment, while recruiting the employees and in the same line, the Government of India has also issued a letter not F.8(4)/LP/77, dated 15.01.1977 to provide employment to the displaced persons in Public Sector as well as in Private Sector, why the second petitioner alone should be discriminated. Further, the Government of Tamil Nadu has also issued yet another G.O.Ms.No.656 Labour and Employment Department dated 29.06.1978, which shows the procedure for recruitment of employees particularly with reference to those who have given their lands for establishment of a project of the Public Sector as well as Private Sector, therefore, the claim of the second petitioner Panneer Selvam ought not to have been rejected for the reason that when the second petitioner has also given his land for establishing the Sugar Mill, more particularly when he has been admittedly, working in the Sugar Mill for the last 30 years as seasonal employee. Hence, he cannot be refused for regularisation at the fag end of his service carrier. 11.Therefore, on the basis of above said two reasons namely, (i) admittedly when he has been continuously working for last 27 years from 1985 and (ii)also for the reason that he has given his valuable land for establishment of the Sugar Mill, this Court is of the view that he should be extended the same benefits, whatsoever has been given to the other three petitioners, viz., Vijayan, Kaliselvam and Elango. 11.It is brought to the notice of this Court that the second petitioner has lost his one leg. Therefore, the regularisation of employment should not be refused to the second petitioner, at

this stage. 12.It is needless to mention that the second respondent, Special Officer has to pass an appropriate order as indicated above in respect of the second petitioner. 13.With the above said direction, the writ petition stands allowed in respect of the second petitioner only. No costs. Consequently, W.P.M.P.No.34091 of 2005 is closed. 18.02.2013 Index:Yes/No Internet:Yes/No cla Note to Office: Issue order copy on 8.4.2013. To 1.The Director of Sugars, E.V.R.Periyar Maaligai, 690, Anna Salai, Nandanam, Chenna

035. 2.The Special Officer, Vellore Co-operative Sugar Mills Ltd., Vellor

519. T. RAJA,J.

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