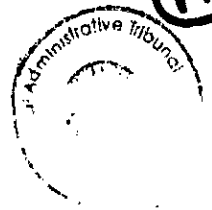


- 6 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD



C.P. No. 22 of 2012

in

O.A. No. 556 of 1995

Date of Order : 10th October, 2012

Between:

R. Ramu, S/o. Damodar,

Aged about 48 years, Occ: Unemployee,

Picket, Secunderabad.

... Applicant

A N D

The General Manager, Ordnance Factory Project,

Government of India, Ministry of Defence,

Yeddumilaram, Medak District.

... Respondents

Counsel for the applicant

... Mr. N. Ramesh

Counsel for the respondents

... Mr. G. Jaya Prakash Babu, Sr. CGSC

CORAM:

HON'BLE MR. JUSTICE P. SWAROOP REDDY, MEMBER (JUDICIAL)

HON'BLE MR. R. SANTHANAM, MEMBER (ADMN.)

ORAL ORDER

{As per Hon'ble Mr. Justice P. Swaroop Reddy, Member (Judl.)}

Heard Mr. Phani Raj, learned counsel representing Mr. N. Ramesh,
learned counsel for the applicant and Mr. G. Jaya Prakash Babu, learned
senior standing counsel for the respondents.

2. Applicant filed O.A. No. 556 of 1995, which was disposed of with the
following direction on 11.07.1995:-

*"4. As it is stated for the respondents that they
are going to consider the case of the applicant for
appointment in the vacancy in the trade of Mill-Wright
(SS) Mechanic as and when his turn arises, no further
orders need be passed in this O.A. Accordingly, it is
closed at the admission stage. No costs."*

ATTESTED /

S. SRINIVASA RAO
Jr. Works Manager
Govt. of India, Ministry of Defence
Ordnance Factory Medak
Yeddumilaram-502205
Medak Dist. (A.P.)

3. Thereafter, respondents issued proceedings dated 26.12.1996 to the applicant referring to the orders passed in the O.A. and, further, stated that he was selected for the post of Mill Wright (Semi Skilled) in the interview held on 6.3.1991 and his name was figured at Sl. No. 7 of the selection list. In the O.A. No. 556/95 decided by the Tribunal on 11.07.1995, it was

Wright (Semi Skilled) as and when his turn comes. Accordingly, he will be offered appointment in the grade of Mill Wright (Semi Skilled) as soon as selection list.

4. In view of the above orders, unless someone-else in the selection list above the applicant is appointed, in our opinion, contempt would arise. Now the contention of the applicant is that no one is appointed from the earlier selected list and a fresh notification is issued in May, 2011 and, as such, the applicant has to be considered for appointment before giving

5. Learned senior standing counsel resisted the contention of the learned counsel for the applicant contending that there cannot be a contempt after so many years i.e. about 16 years. But the contention of the applicant is that the contempt is constituted only when the notification was issued during May, 2011 ignoring the claim of the applicant.

6. In the circumstances, it cannot be said Contempt Petition is not

maintainable as in para. 100 of 1999, the operative portion which is **ANNEXED II**

extracted above shows that there was an undertaking of offering

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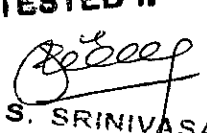
appointment to the applicant and, subsequently, there was a letter issued dated 26.12.1996 indicating the same-thing and in case anybody else in the earlier list is selected, the applicant could not have any grievance. Admittedly, no-one is selected from the earlier list and impugned advertisement was issued in the meanwhile. Thus, it is a peculiar case and this Tribunal vide its order dated 13.2.2012 in O.A. 1080/2011 & M.A. No. 24/2012 in O.A. No. 1080/2011 & batch has considered similar question

8 of the said order are extracted below:-

"4. Though the contention of the learned Senior Standing Counsel appearing for the respondents that the panel cannot be in force for such a long time has lot of force, but unfortunately, in this case, such argument is not available in view of the earlier undertaking given and on account of allowing of the O.A. Nos. 1550/01, 850/94, 278/08, 1280/99, 378/99 and 944/94 long back against which, writ petition was filed only in 2011 where no stay is granted, and it might take sufficient time for the writ Petition for being disposed of and the applicants who have already waited for about two decades cannot be made to wait further.

5. Hence, we are of the view that an order can be passed directing for appointment of the applicants which shall be subjected to the result of the writ petition.

6. The contention of the learned Standing Counsel is that the recruitment may be allowed to go on keeping seven vacancies to be filled up for appointment the applicants in case they succeed. We are not inclined to accept this alternative in view of the nature of the litigation and in view of the fact that waiting for the

ATTESTED H

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petition to be disposed of, which may take time, may even result in the applicant's reaching their retirement age.



7. Learned Senior Standing Counsel relies upon a decision of the Hon'ble Delhi High Court in W.P. (C) No. 1794/2011. There is absolutely no dispute about the legal position as reiterated in the above decision. But, ~~there was~~ already an undertaking and as there is decision on the case of the individuals, which is not reserved, we cannot apply the judgment.

8. We make it clear that the respondents can go ahead with the recruitment after all the applicants are appointed and the respondents can fill up the remaining vacancies. It is needless to mention that the appointments of the applicants shall be subject to the result of the Writ Petitions pending in the Hon'ble High Court."

7. We have to follow the above order of this Tribunal as the same is not reversed.

8. In these circumstances, a direction is issued to the respondents to appoint the applicant to the post of Mill Wright before filling up the vacancies advertised vide impugned notification dated 30th April/06 May, 2011 and report compliance within one month. No costs.

TRUE COPY

CP 22/12.05.556/95

10.10.12

17.10.12

ATTESTED //

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V. Anup Kumar
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