

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.8932 of 2001

ORDER:

In this writ petition, the petitioner challenges the common order dt:10.11.1999 in M.P.No.1/98 and batch passed by the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2 a) The petitioner herein as petitioner in M.P.No.2/98 and others filed batch of M.P.Nos.1/98 to 5/98 with the allegations that they worked in different capacities under 1st respondent, who was the Contractor and the Principal Employer and they were illegally terminated from service. Thus they claimed service compensation, gratuity, bonus, unpaid wages, P.F. contribution, leave encashment and over time work along with interest @ 24% p.a. The present petitioner is concerned, his contention was that he worked under 1st respondent as a workman from 01.02.1994 to 21.09.1997 on a monthly salary of Rs.1200/- and he was illegally terminated from service by the 1st respondent and he was entitled to Rs.31,461/-. All these petitions were filed under Sec.33-C of Industrial Disputes Act, 1947 (for short "I.D. Act").

b) The second respondent contended that the 1st respondent has executed contract works awarded by the Government and the work was completed by 15.07.1997 and the services of the workman and their termination was not known to it and it was wound up on 30.09.1997 on completion of the project by 15.07.1997 and the records were also handed over to Superintendent Engineer, R & B, N.H Circle, Visakhapatnam for further maintenance. R.2 thus denied the existence of workmen and management relationship.

c) The first respondent contended that the petitioners never worked as workmen with it and the question of illegal termination does not arise at all and the petitioners do not deserve any compensation.

d) In view of the said contention, the learned Presiding Officer of

Industrial Tribunal-cum-Labour Court, Visakhapatnam came to conclusion that when there was a serious dispute with regard to the workmen and management relationship, the Labour Court cannot entertain the application under Sec.33-C(2) of I.D. Act and hence the petitioners can raise the dispute under Sec.10 of the I.D. Act. Accordingly, the Labour Court dismissed the petitions filed by the petitioners.

3) Aggrieved, the petitioner filed instant writ petition challenging the order dt:10.11.1999 in MP No.2/98.

4) When the matter came up for hearing today, there is no representation for petitioner. It is seen that this writ petition was dismissed for default against respondents 2 and 3 vide order dt: 29.04.2009. That apart, on merits also the petitioner has no case since the Industrial Tribunal observed that when there is a serious question of the workmen and management relationship involved in the case, the Tribunal cannot decide the petition under Sec.33-C of I.D. Act. Accordingly, it dismissed the petitions of the present petitioner and others. I find no irregularity or illegality in the said order.

5) In the result, this writ petition is dismissed. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 20.11.2015

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