HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT APPEAL Nos. 136 AND 1298 OF 2006

COMMON JUDGMENT: (per the Hon'ble Sri Justice Dilip B. Bhosale)

These writ appeals are directed against the order dated 23-09-2005 passed in Writ Petition No. 7912 of 2002 filed by 47 employees of the appellant – employer (for short "the appellants") in Writ Appeal No. 1298 of 2006. Writ Appeal No.136 of 2006 is filed by the employees challenging the very same order to the extent of not granting relief of seniority and continuity of service from the date of their initial appointments. The concluding paragraph of the impugned order reads thus:

> "On the above analysis, the writ petition is allowed to the extent of directing the respondents to pay the petitioners salary, emoluments, and other benefits with effect from their initial dates of regular service as Mazdoors, with effect from 6.12.1996. The respondents shall expeditiously compute and pay the monetary benefits of this component to the petitioners, and at any rate, within a period of six weeks from the date of receipt of a copy of this order. In this, the respondents shall fail not. No order as to costs."

The petitioner – employees were appointed under the Subordinate Services Non-statutory Rules as Mazdoors on various dates from 1976 to 1990. They had put in 10 to 20 years of service as Man Mazdoors. Thereafter, they all were appointed on regular basis as Mazdoors with effect from 06-12-1996, and, according to the appellants, were put on probation from 06-12-1996 for a period of two years, vide proceedings dated 18-03-1998 and after having satisfactorily completed the period of probation, their services were treated as approved probationers. Despite the same, the petitioner –

employees state that they were not given pecuniary benefits with effect from 06-12-1996. Pecuniary benefits were extended from 09-12-1997. Thus, in short, the grievance of the petitioner - employees in the writ petition was that though they were absorbed as Mazdoors with effect from 06-12-1996, pecuniary benefits were not given from that date, but they were extended from 09-12-1997. According to the appellants (Vijayawada Thermal Power Station, Andhra Pradesh Genco Limited, Post Ibrahimpatnam, Krishna District), they were not given pecuniary benefits with effect from 06-12-1996 in view of the order of the appellants dated 18-03-1998. Before the learned single Judge, it was argued on behalf of the appellants that the underlying policy to deny the petitioner-employees the pecuniary benefits for a period of one year from 06-12-1996 to 09-12-1997 was that the petitioners were on probation during that period. Learned counsel appearing for the appellants before this Court however submitted that the petitioner – employees were not entitled for pecuniary benefits from 06-12-1996 in view of the scheme and so also the order passed by this Court dated 27-07-2006 in Writ Appeal No.117 of 1998. He also placed before us a copy of the order dated 27-07-2006 passed in Writ Appeal No.117 of 1998, which reads thus:

> "While admitting the Writ Appeal, this Court, by order dated 06-02-1998, directed that the grant of financial benefits be effected prospectively from the date of the judgment in W.P.No.9660 of 1997 until the disposal of the appeal, and listed the appeal for hearing.
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> Both Smt. Urmila, learned Standing Counsel for the appellant and Sri G. Mukund Reddy, learned counsel for the respondent, would agree that the interim order passed by this Court on 06-02-1998 be made the final order.
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> Recording the said concession, the Writ Appeal itself is disposed of in terms of the interim order passed by this court on 06-02-1998. No order as to costs."

The writ appeal No. 117 of 1998 was in respect of the Sub-Engineers. Though learned counsel for the appellants submitted across the Bar that this order (dated 27-07-2006) was the basis for extending benefits from 09-12-1997, before the learned single Judge, it was urged that the ground for extending benefit from 09-12-1997 was that the petitioners were on probation during 06-12-1996 and 09-12-1997. Thus, there is clear inconsistency in their stand before the learned single Judge and in the appeal before this Court. Similarly, we do not find any materials on record in support of the appellants case that the petitioners were on probation except the bare submission made by the appellants. Keeping that in view, we do not find any reason to interfere with the order passed by the learned single Judge and, in our opinion, he has rightly granted pecuniary benefits for a period of one year from 06-12-1997 to 09-12-1997. Hence, Writ Appeal No.1298 of 2006 filed by the employer is dismissed.

Insofar as the appeal filed by the petitioner – employees is concerned, their counsel could not and did not place any materials before the Court so as to support his contention that the employees were entitled for all benefits with effect from their initial appointments between 1976 and 1990. In other words, the petitioners – employees could not and did not place any material on record or pointed out any provision of law or judgment in support of their case that they were entitled for seniority and continuity of service including salary and emoluments from the dates of their initial appointments as casual employees. Learned counsel for the petitioner – employees as a matter of fact did not press the appeal filed by the petitioner – employees. Writ Appeal No.136 of 2006 filed by the employees is also dismissed.

It is needless to mention that having regard to the passage of time and for the reasons stated in this order we have not examined the contention urged on behalf of the appellants. If any petitions/proceedings are filed by any other employees, it would be open for the appellants to raise all contentions to oppose the prayer. In short, this order shall not form a precedent and if any such petition is filed, we observe that the same will be considered on merits in accordance with law.

Miscellaneous petitions, in both the appeals, also stand disposed of. There shall be no order as to costs.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

02-03-2015
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