

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

WRIT PETITION No.47 OF 2005

Between:

The Chief Executive Officer,
Zilla Parishad, Nizamabad,
Nizamabad District.

.. Petitioner

And

K. Rajanna

.. Respondent

DATE OF JUDGMENT PRONOUNCED: 11-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.47 of 2005

ORDER:

The Chief Executive Officer, representing the Zilla Parishad, Nizamabad, is before this Court aggrieved by the common award dated 27.03.2004 passed by the Labour Court-II, Hyderabad, insofar as it

pertained to I.D.No.140 of 2001.

By the said award, the Labour Court set aside the termination orders passed against the workmen, who had filed the I.Ds., and directed their reinstatement in service as NMR Work Inspectors on daily wage basis on the SSR existing at that time. The Labour Court however held that they would not be entitled to back wages but should be given continuity of service for the purpose of regularization of their services.

By order dated 03.02.2005, this Court granted interim stay of the impugned award subject to compliance with Section 17-B of the Industrial Disputes Act, 1947 (for short 'the Act of 1947').

It is however stated by Sri G. Narender Reddy, learned counsel for the petitioner Zilla Parishad, that instead of paying Section 17-B wages to the respondent-workman, his client chose to reinstate him in service under proceedings dated 02.09.2005. The said proceedings are placed on record.

Sri G. Narender Reddy, learned counsel, would contend that the respondent-workman herein failed to comply with the requirements of Section 25-B(2) of the Act of 1947 as he did not complete 240 days of service in the calendar year preceding his alleged termination from services. He would rely upon the narration of facts in paragraph 5 of the impugned common award in support of his contention.

No doubt, the petitioner in I.D.No.140 of 2001 was stated in the said paragraph to have put in service only between the dates 05.05.1993 and 21.05.1993. This Court however finds no issue having been raised by the petitioner Zilla Parishad before the Labour Court as regards due compliance with the requirements of Section 25-B(2) of the Act of 1947. Para 3 of the common award reflects that a similar counter was filed in all the cases wherein, while admitting the appointment of the petitioners in the I.Ds. as NMR Work Inspectors, the only contention urged by the Zilla Parishad was that the scheme under which they were appointed was no longer in existence and that was the reason why their services were terminated. As the issue of the respondent-workman herein not having completed 240 days of service in the calendar year immediately

preceding his termination from service was not raised before the Labour Court, it is too late for the petitioner Zilla Parishad to raise the same at this stage. However, as the dates mentioned in para 5 of the common award are not in dispute and Sri P. Sudheer Rao, learned counsel representing Smt. K. Udaya Sri, learned counsel for the respondent-workman, admits this factual position, this Court is of the opinion that the respondent-workman would not be entitled to the relief of continuity of service granted by the Labour Court.

The impugned common award dated 27.03.2004 is accordingly modified insofar as I.D.No.140 of 2001 is concerned by confirming it only to the extent of the relief of reinstatement. The respondent-workman will not be entitled to any of the other benefits granted by the Labour Court.

The writ petition is accordingly allowed in part. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

11th August, 2015
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