

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT APPEAL No.1036 of 2015

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JUDGMENT : (per Hon'ble Sri Justice R.Subhash Reddy)

This Writ Appeal, under Clause 15 of Letters Patent Act, is filed by the appellants/petitioners in W.P.No.36630 of 2013, aggrieved by the order dated 15.09.2015 passed by the learned single Judge.

2. The appellants/petitioners are Ex-Servicemen. On the letter dated 27.09.2007 addressed by the 3rd respondent, the 5th respondent has provided the services of the appellants as Security Guards and they were posted at various places viz., N.T.R. Gardens, Necklace Road, Sanjeevaiah Park etc. When their services were ordered to be discontinued pursuant to the letter dated 16.11.2013, the appellants have approached this Court by way of filing W.P.No.36630 of 2013 seeking *Mandamus* declaring the action of the 3rd respondent in withdrawing the services of the appellants as Security Officer, Assistant Security Officers, Security Guards etc., as arbitrary and illegal. Pursuant to the interim order dated 13.12.2013 in W.P.M.P.No.45530 of 2013 in W.P.No.36630 of 2013 passed by the learned Single Judge, the appellants were continued in service. Finally, through the impugned order dated 15.09.2015, the said writ petition was dismissed, rejecting the claim of the appellants mainly on the ground that they were not employed directly by the 3rd respondent and they were deputed by the 5th respondent to work on the letter addressed by the 3rd respondent to the 5th respondent – Department of Sainik Welfare.

3. In this Writ Appeal, Sri A.K. Jayaprakash Rao, learned counsel for the appellants contends that though the appellants are having more than the required continued service as contemplated under the Industrial Disputes Act, 1947 (for brevity “the Act”), without following the mandatory provisions of the Act, their services were dispensed with. It is further contended that there is no reason in discontinuing the services of the appellants. Lastly, the learned counsel would contend that at least the services of the appellants may be continued till a new contractor takes up the project by deputing their personnel to work as Security Guards.

4. On the other hand, Sri V. Narasimha Goud, learned Standing Counsel for the 2nd respondent-Authority contends that the services of the appellants were dispensed with from 27.11.2013 and they were never the employees of the 3rd respondent and they were only deputed to work by the 5th respondent basing on the letter addressed by the 3rd respondent-authority.

5. No material is placed before this Court to show that, at any point of time, the appellants were appointed by the 3rd respondent-authority. Their services came to be engaged at various places viz., N.T.R. Gardens, Necklace Road, Sanjeevaiah Park etc., by the 3rd respondent-authority, in response to the letter dated 27.09.2007 addressed by the 3rd respondent to the 5th respondent. In that view of the matter, we are in agreement with the finding recorded by the learned single Judge that there is no relationship of ‘Employer – Employee’ between the 3rd respondent and the appellants.

6. Even with regard to the claim of the appellants that the 3rd respondent is an ‘*industry*’ within the meaning of the Act, if that be so, there is an effective alternate remedy available to them under the Act itself. In view of the factual disputes raised by the 3rd respondent, it is not desirable to entertain the said plea before this Court. Inasmuch as, it is submitted by the learned Standing Counsel for 2nd

respondent that the services of the appellants were dispensed with from 27.11.2013, we are not inclined to issue any direction for their continuance in service any further.

7. For the aforesaid reasons and in view of the reasons recorded by the learned single Judge in the impugned order, we do not find any merit in this Writ Appeal warranting interference by this Court.

8. Accordingly, this writ appeal is dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

30.11.2015.

Msr

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