

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.27187 of 2005

ORDER:

The writ petition is filed seeking mandamus declaring the order, dated 12.12.2005, passed by the 1st respondent-Industrial Tribunal-cum-Labour Court, Warangal in unregistered ID (SR) No.3112 of 2005, as illegal and arbitrary.

Heard both sides and perused the material available on record.

The petitioners are claiming themselves working as Security Guards in the 2nd respondent University. Originally, there was contract in between the University and a private agency, which supplied the manpower. The petitioners herein earlier filed W.P.Nos.35485/1998 and 24901/1999 seeking a direction to the respondent University to treat them as contract labour and to pay minimum wages and also for regularization of their services as watch and ward personnel/security guards of respondent university. The said writ petitions were dismissed by this Court on 13.06.2005 holding that the petitioners cannot be declared as contract labour and that it is for the petitioners/security guards to work out their remedies as available under law. Thereafter, the petitioners/workmen/security guards filed I.D(SR) No.3112/2005 on the file of the 1st respondent-Industrial Tribunal-cum-Labour Court, Warangal. The learned Tribunal by order dated 12.12.2005 held that the petitioners are not entitled to raise industrial dispute and accordingly, rejected the ID(SR) at the threshold. Challenging the said order, the present writ petition is filed.

The contention of the learned counsel for the writ petitioners is that even though they might have sponsored by an agency, but still they continued to be contract employees of the University and therefore, they are entitled to raise the dispute before the Industrial Tribunal, more particularly, in view of the liberty given to the petitioners in the writ petitions filed earlier i.e. in W.P.Nos.35485/1998 and 24901/1999.

The respondent/University opposed the writ petition on the ground that there

is no relationship as Master and Servant in between the University and the petitioners, and they cannot be treated as employees of the University and they cannot be absorbed as such.

“Industrial Dispute” is defined in Section 2(k) of the Industrial Disputes Act as under:

“Industrial Dispute” means any dispute or difference between the employers and employers or between the employers and the workmen or between the workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.”

The present dispute, which is in between the workmen and the University cannot be said to be not falling within the ambit of Section 2(k) of the Industrial Dispute Act. The question as to whether there is a reference under Section 2-A of the Industrial Disputes Act, that there is no question of there being any discharge, termination, dismissal or retrenchment, it cannot be held that the Tribunal has no jurisdiction and it cannot be adjudicated at the threshold even without registering the Industrial Dispute. The question as to whether the petitioners having been working as Security Guards in the respondent University or retrenched, whether they are entitled to absorb or for that matter whether there exists any relationship of Master and Servant are all the questions which call for adjudication, which is possible only after an opportunity being afforded to the petitioners/workmen and thereafter the Management to prove or disprove the contentions of the petitioners/workmen. Without considering these questions, straightly rejecting the claim of the petitioners at the threshold on the ground that they are not entitled to raise industrial dispute is not proper.

Without going into the merits of the case, I feel that it is a fit case to give a direction to the learned Tribunal to register the Industrial Dispute and adjudicate the same on merits.

Accordingly, the Writ Petition is disposed of. The 1st respondent-Industrial Tribunal-cum-Labour Court, Warangal is directed to register the ID(SR) No.3112/2005 and dispose of the same on merits, in accordance with law, as expeditiously as possible, preferably, within a period of 6 (six) months from the date of receipt of a copy of this order, without being influenced by any observations made

in this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 23.11.2015

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