

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.37167 of 2015

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DATED : 16.11.2015

Between :

Chunarkar Rajeshwar S/o.Adku,
Age 40 yrs, Occu : Casual Labour/Attender,
Telangana Grameena Bank, Wankidi Branch,
Adilabad District R/o.Khamana Village,
Wankidi Mandal, Adilabad District.
(presently removed from service)

..

Petitioner

and

The Telangana Grameena Bank,
Rep., by its Chairman,
H.No.2-1-520, Street No.9,
Nallakunta, Hyderabad & 2 others.

..

Respondents

This court made the following :

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WRIT PETITION No.37167 of 2015

ORDER :

Petitioner claims to be the local candidate of Adilabad District, belonging to S.C., community. According to the petitioner, he was engaged as a casual employee in the year 2000 and has been continuously working on payment of daily wage. While so, suddenly, the respondent-Bank directed the petitioner to stop coming to work and no work was assigned to him. Aggrieved thereby this writ petition is filed.

2. Learned counsel for the petitioner submits that the petitioner has been working for a long time and has rendered long satisfactory service. Instead of regularizing his service and granting permanent employment, by oral directions, petitioner was asked not to attend the duties. According to learned counsel for the petitioner, petitioner fell sick and could not attend the duties from 01.01.2015 to 15.02.2015 and after he recouped from ailment, when he reported to the duty, he was not allowed to join the duty and such action is illegal, depriving continuity of service of the petitioner, having utilized his services for a very long time. In support of his claim that petitioner was engaged by the respondent-Bank, pay slips issued to the petitioner were enclosed as material papers to the writ petition.

3. Learned counsel for the petitioner also placed reliance on similar orders of this Court in several writ petitions, wherein, this Court directed to regularize after formulating the scheme or otherwise on account of the long service rendered by the employee in accordance with the principle laid down by the Hon'ble Supreme Court, in the ***State of Karnataka Vs Uma Devi***^[1].

4. Learned Standing Counsel representing the respondent-Bank produced written instructions furnished to him by the Branch Manager, Telangana Grameena Bank, Wankidi Branch, Adilabad District (3rd respondent) dated 13.11.2015. According to the instructions furnished, petitioner was engaged in the year 2005 and worked till November 2009. Thereafter, the petitioner voluntarily stopped coming to the work. On account of not attending to the duties, the same work was assigned to another person by name J. Shyam.

5. Learned Standing counsel further submits that J. Shyam instituted W.P.No.31820 of 2014 praying to continue him as casual labour (Attender) in the 3rd respondent-Bank therein. This Court passed interim order on 27.10.2014 directing the respondent-Bank to admit the petitioner therein to duties as usual. The post which the petitioner is claiming to have been working, is the same post in which J.Shyam is engaged and the claim of regularization made by J.Shyam relates to the same post .

6. As seen from the material papers enclosed to the writ petition, the pay slips given to the petitioner are all related to the year 2009. When specifically asked, learned counsel for the petitioner states that no other material is available with the petitioner as the signatures were obtained and amounts were paid to the petitioner without giving the pay slips and therefore, petitioner is unable to produce such material. However, the fact is that only 2009 pay slips are filed, lends credence to the stand of the respondent Bank, that the petitioner stopped attending to the work after November, 2009.

7. The principle laid down in ***Uma Devi's case (Supra)***, and the decisions of this Court relied upon by the petitioner do not come to the rescue of the petitioner, unless petitioner proves that he has been continuously working in the respondent-Bank and is in service till by oral orders he was asked not to attend to work. Whereas no material is available on record to show that petitioner has worked after November, 2009. Thus, no relief as sought for by the petitioner can be granted in this writ petition.

8. If it is the case of the petitioner that master and servant relationship exists between the petitioner and respondent-Bank and that without following the mandate of Industrial Disputes Act, his services are terminated, it is always open to the petitioner to work out his remedies under Industrial Disputes Act.

9. In view of the above, the writ petition is dismissed leaving it open to the petitioner to work out his remedies as available under the Industrial Disputes Act. In case petitioner avails the remedy as available under Industrial Disputes Act, it is made clear that the observations made herein, do not come in the way of petitioner ventilating his grievance. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

16th November, 2015
Rds

P.NAVEEN RAO,J

[\[1\]](#) 2006 (4) SCC 1