

THE HONBLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.3283 of 2006

ORDER :

Heard Sri A.K.Jayaprakash Rao, learned counsel for the petitioner and learned Government Pleader for Labour. Perused the material available on record.

Assailing the award dated 07.02.2005 passed in I.D.No.37 of 2002 on the file of the Labour Court-III, Hyderabad, the present writ petition is filed.

The facts in issue are as under:

The petitioner herein filed an application under Section 2 A(2) of the Industrial Disputes Act to set aside the termination order dated 09.04.2002 passed by the 2nd respondent herein and to direct the respondents 2 and 3 to reinstate the petitioner into service with continuity of service, back wages and all other attendant benefits.

After perusing the oral and documentary evidence and having regard to the facts and circumstances of the case, the Labour Court dismissed the I.D. as not maintainable under Section 2-A(2) of the Industrial Disputes Act giving liberty to the petitioner to go in for reference under Section 10(1) of the I.D.Act. Aggrieved by the said award, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that the 1st respondent failed to adjudicate the dispute on merits and erroneously rejected the petitioner's application on the ground that the same is not maintainable under Section 2-A(2) of the I.D. Act and that Section 10(1) reference is only available if the union

espoused the cause. Since the petitioner is not a member of the union question of reference under Section 10(1) does not arise. It is urged that the impugned award may be set aside and the petitioner may be granted the relief as prayed for.

On the other hand, learned Standing counsel for the respondent corporation, submits that the petitioner was not appointed by the respondent corporation and as such there is no master and servant relationship between the petitioner and the respondent corporation. He further submits that maintenance work of the 2nd respondent Depot was handed over to out side contract labour by calling quotations and one Mr Md.Nazeeb was given contract for a period of three months and that the said Nazeeb might have engaged the petitioner. Hence, it is contended that there is no illegality or irregularity in the impugned award and the same may be confirmed.

Though various grounds are raised, learned counsel for the petitioner restricts the prayer seeking a direction to the respondents to consider the case of the petitioner for a fresh appointment having regard to the experience he gained.

Having regard to the submission made by the learned counsel for the petitioner and taking into consideration the length of time he has spent working for the corporation, the petitioner is advised to make a fresh application seeking employment, in which event the respondents corporation can consider his case, in accordance with law, at the earliest.

With the above direction, the writ petition is disposed of.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date: 10.12.2015

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